SUPREME COURT OF THE UNITED STATES.

No. 269.

JOHN H. McKEE, CLAIMANT OF 137 BALES OF COTTON, 100 COILS OF ROPE, 16 BALES, 8 ROLLS, AND 160 PIECES OF BAGGING, AND 29 PIECES OF LEATHER, APPELLANT,

vs.

THE UNITED STATES.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF ILLINOIS.

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O

1 UNITED STATES OF AMERICA, *Southern district of Illinois, ss:*

Pleas in the district court of the United States for the southern district of Illinois, held at the city of Springfield, in said district, before the honorable Samuel H. Treat, judge of said court, on Monday, the sixth day of November, in the year of our Lord one thousand eight hundred and sixty-five, and of the independence of the United States the ninetieth.

THE UNITED STATES
vs.
SIX HUNDRED AND FIFTY BALES OF COTTON; 100 coils of rope; 16 bales, 8 rolls, and 160 pieces of bagging; 29 pieces of leather; 788 bales, 52 sacks of cotton; 409 bales, 139 sacks of cotton, and 1,000 bales of cotton.
JOHN H. McKEE, claimant of 137 bales of cotton, 100 coils of rope, 16 bales, 8 rolls, and 160 pieces of bagging, and 29 pieces of leather.
} In prize.

2 Be it remembered, that heretofore, on the eighteenth day of May, in the year of our Lord one thousand eight hundred and sixty-four, came Lawrence Weldon, district attorney of the United States for the southern district of Illinois, and filed in the office of the clerk of the district court of the United States for said district a libel, in behalf of the United States and all others concerned, against 650 bales cotton, 100 coils rope, 16 bales of bagging, 8 rolls bagging, 160 pieces bagging, 29 pieces of leather, in a cause of prize; which said libel is in the words and figures following, to wit:

Libel.

District court.—In prize.

UNITED STATES OF AMERICA, *Southern district of Illinois, ss:*

Be it remembered, that on the 18th day of May, A. D. 1864, before the Hon. Samuel H. Treat, judge of the said court, comes Lawrence Weldon, district attorney of the United States for said district, in the name
3 and behalf of the United States and of all other persons concerned, propounds and gives the said judge to understand and be informed that on or about the 20th day of March, A. D. 1864, on waters navigable to the sea by vessels of ten or more tons burden, or on lands adjacent thereto, the navy of the United States did seize as lawful prize of war the following, to wit: 650 bales cotton, 100 coils rope, 16 bales of bagging, 8 rolls bagging, 160 pieces bagging, 29 pieces of leather, which are now at the port of Cairo, and within the jurisdiction of this court.

The said attorney alleges that all and singular the premises are true, and within the prize jurisdiction of this court, and that all of the said property so captured is lawful prize of war.

Wherefore the said attorney prays that process of attachment may issue against said property, and the monition of this honorable court in that behalf to be made, and that all persons interested in said property may be cited to appear and answer all and singular the allegations of this libel, and all due proceedings being had, your honor will adjudge and decree a con-
4 demnation of said property as prize of war, and that the proceeds thereof may be distributed according to law.

L. WELDON, *U. S. Att'y.*

Filed May 18th, A. D. 1864.

GEO. P. BOWEN, *Clerk.*

Whereupon a writ of attachment and monition was issued against said property, directed to the marshal of the southern district of Illinois, to execute, and was afterwards, to wit, on the nineteenth day of May, in the year last aforesaid, returned by said marshal duly executed, which said writ, together with the return of the marshal thereto, are in the words and figures following, to wit:

Attachment and monition.

THE UNITED STATES OF AMERICA, *Southern district of Illinois, ss:*

The United States of America to the marshal of the southern district of Illinois, greeting:

Whereas a libel hath been filed in the district court of the United States for the southern district of Illinois, on the eighteenth day of May, in the year of our Lord one thousand eight hundred and sixty-four, by L. Weldon, district attorney of the United States for said district, in behalf of the United States, and of all other persons concerned, against six hundred and fifty bales of cotton, one hundred coils rope, sixteen bales of bagging, eight rolls of bagging, one hundred and sixty pieces bagging; and twenty-nine pieces of leather, for reasons and causes in said libel mentioned, and praying the usual process and monition of the said court in that behalf to be made, and that all persons having or pretending to have any right, title, or interest therein, may be cited to appear and answer all and singular the matters in said libel articulately propounded, and that this court would be pleased to pronounce for the condemnation thereof as lawful prize of war.

You are therefore commanded to attach the said six hundred and fifty bales of cotton, one hundred coils of rope, sixteen bales of bagging, eight rolls of bagging, one hundred and sixty pieces of bagging, and twenty-nine pieces of leather, and to detain the same in your custody until the further orders of this court respecting the same, and to give due notice by publication in the Illinois State Register for fourteen days previous to the day of trial of such seizure and libel, to all persons claiming the said six hundred and fifty bales of cotten, one hundred coils of rope, sixteen bales of bagging, eight rolls of bagging, one hundred and sixty pieces of bagging, and twenty-nine pieces of leather, or knowing or having anything to say why this court should not pronounce against the same according to the prayer of said libel, and that they be and appear before the said court to be held in and for the southern district of Illinois, at the United States court-room in the city of Springfield, in said district, on the first Monday in June next, if that be a day of jurisdiction, if not, then on the first day of jurisdiction thereafter, at 10 o'clock in the forenoon of that day, then and there to interpose a claim for the same, and to make their allegations in that behalf; and what you shall have done in the premises, do you then and there make return, together with this writ.

Witness the Hon. Samuel H. Treat, jugde of our said court, this eighteenth day of May, in the year of our Lord one thousand eight hundred and sixty-four, and of our independence the eighly-eighth.

[L. S.] GEO. P. BOWEN, *Clerk.*

Marshal's return.

By virtue of this writ I have this day levied an and attached the within described property, and made due proclamation thereof, and as said

property is perishable and liable to be destroyed, I respectfully recommend its sale, pending proceedings against the same, this 19th day of May, 1864.

D. L. PHILLIPS, *U. S. Marshal.*

Filed this 19th day of May, 1864.

GEO. P. BOWEN, *Clerk.*

8 *Notice of libel and seizure.*

UNITED STATES OF AMERICA, *Southern district of Illinois, ss:*

Whereas, on the 18th day of May, A. D. 1864, L. Weldon, United States district attorney, filed a libel in the district court of the United States for the southern district of Illinois, against 650 bales of cotton, one hundred and eighty coils rope, sixteen bales of bagging, eight rolls of bagging, 180 pieces of bagging, and 29 pieces of leather, in a cause of condemnation and forfeiture; and whereas, by virtue of process in due form of law to me directed, returnable on the first Monday in June next, I have seized upon and taken the said property, and have the same in my custody: Notice is hereby given that a district court of the United States will be held at the United States court-room, in the city of Springfield, on the first Monday in June next, for the trial of the said premises, and the owner or owners and all persons who have or claim any interest, are hereby cited
9 to be and appear at the time and place aforesaid, to show cause, if any they have, why a final decree should not pass as prayed.

D. L. PHILLIPS, *U. S. Marshal.*

Springfield, May 20, 1864,

Certificate of publication.

The undersigned publisher of the Illinois State Register, a newspaper published at Springfield, Illinois, do hereby certify that the annexed notice was published in said paper for fourteen days sucessively, the first publication thereof having been made on the 21st day of May, A. D. 1864, and the last on the 5th day of June, A. D. 1864.

Illinois State Register Printing Co., publishers Illinois State Register—per D. O. C.

Filed June 6, 1864

GEO. P. BOWEN, *Clerk.*

On the said nineteenth day of May, in the year last aforesaid, the
10 following proceedings were had in said court in said cause, and entered of record, to wit:

Order of sale pendente lite.

THE UNITED STATES
vs.
SIX HUNDRED AND FIFTY BALES OF COTTON, ONE hundred coils of rope, sixteen bales, eight rolls, and one hundred and sixty pieces of bagging, and twenty-nine pieces of leather. } In prize.

It appearing to the court from the return of the marshal to the writ of monition issued in this cause, that he has attached the said six hundred and fifty bales of cotton, one hundred coils of rope, sixteen bales, eight rolls, one hundred and sixty pieces of bagging, and twenty-nine pieces of leather, and that the same are perishable and liable to destruction, it is thereupon ordered by the court that the said property be sold by the marshal under and by virtue

of a writ of venditioni exponas to be issued by the clerk of the court, in accordance with the rules and practice of the court, and that, upon
11 making such sale, the marshal deposit the proceeds thereof with the the assistant treasurer of the United States at St Louis, subject to the order of the court. It is further ordered that said writ be made returnable on the second Monday of June next, and that the marshal give notice of said sale by publication in the newspaper designated by the court, and also in one or more newspapers published in the cities of Chicago, St Louis, Cincinnati, and Cairo.

And thereupon a writ of venditioni exponas was issued, directed to the marshal of said district to execute, and was afterwards, to wit, on the twenty-first day of June, in the year last aforesaid, returned by said marshal duly executed, which said writ, together with the return of the marshal thereto, and the certificate of deposit filed therewith, are in the words and figures following, to wit:

Venditioni exponas.

THE UNITED STATES OF AMERICA, *Southern district of Illinois, ss:*

12 The United States of America to the marshal of the southern district of Illinois, greeting:

Whereas a libel was filed in the district court of the United States for the southern district of Illinois, on the eighteenth day of May, in the year of our Lord one thousand eight hundred and sixty-four, by Lawrence Weldon, district attorney of the United States for said district, in the name and behalf of the United States of America, and of all other persons concerned against six hundred and fifty bales of cotton, one hundred coils of rope, sixteen bales of bagging, eight rolls of bagging, one hundred and sixty pieces of bagging, and twenty-nine pieces of leather, praying that the same may be condemned and sold for the causes in said libel alleged; and whereas the above-described property has been attached by process issued out of said district court in pursuance of the said libel, and is now in custody by virtue thereof, and such proceedings have been thereupon had that by the decree of said court in this cause made on the nineteenth day of May, in the year of our
13 Lord one thousand eight and sixty-four, the said above-described property was ordered to be sold by you, the said marshal, after giving ten days' notice of such sale, according to law: Therefore you, the said marshal, are hereby commanded to cause said above-described property to be sold, in manner and form upon the notice, and at the time and place required by law, and that you deposit the money arising from such sale with the assistant treasurer of the United States at St. Louis; and have you a certificate thereof, together with a return of your proceedings hereon, in said court at Springfield, in said district, on the second Monday in June, in the year of our Lord one thousand eight hundred and sixty-four; and have you also then and there this writ.

Witness the Hon. Samuel H. Treat, judge of our said court, this nineteenth day of May, in the year of our Lord one thousand eight hundred and sixty-four, and of our independence the eighty-eighth.

[L. S.] GEO. P. BOWEN, *Clerk.*

14 *Notice of sale.—United States marshal's sale in admiralty.*

By virtue of a writ of sale issued out of the United States district court for the southern district of Illinois, in admiralty, dated on the 19th day of May, A. D. 1864, will be sold at public auction to the highest bidder for cash, at Cairo, in said district, on the 8th day of June, A. D. 1864, the fol

lowing-described property, to wit: Six hundred and fifty bales of cotton, 100 coils of rope, 16 bales of bagging, eight rolls of bagging, 160 pieces of bagging, and 29 pieces of leather, the same having been ordered by the court to be sold for the benefit of those whom it may concern.

D. L. PHILLIPS, *U. S. Marshal.*

Springfield, Ills., May 20, 1864.

Certificate of publication.

The undersigned, publishers of the Illinois State Register, a newspaper published at Springfield, Illinois, do hereby crrtify that the annexed
15 notice was published in said paper for ten days successively, the first publication thereof having been made on the 21st day of May, A. D. 1864, and the last on the 1st day of June, A. D. 1864.

Illinois State Register Printing Co., publishers Illinois State Register, per— D. O. C.

Filed June 21, 1861.

GEO. P. BOWEN, *Clerk.*

Marshal's return to venditioni exponas.

By virtue of this writ, I sold on the 8th day of June, A. D. 1864, the within-described property, for the sum of two hundred seventy-two thousand four hundred thirty-seven and $\frac{39}{100}$, and have deposited the same with the assistant United States treasurer at St. Louis, the certificate of which deposit I now return with this writ.

D. L. PHILLIPS, *U. S. Marshal.*

Filed June 21, 1864.

GEO. P. BOWEN, *Clerk.*

Certificate of deposit.

$272,437 $\frac{39}{100}$. OFFICE OF ASSISTANT TREASURER U. S.,
St. Louis, Mo., June 18, 1864.

16 I certify that D. L. Philips, U. S. marshal for the southern district of Illinois, has this day deposited to the credit of the district court of the United States for said district, in the case of the United States, *vs.* 650 bales cotton, &c., two hundred and seventy-two thousand four hundred thirty-seven and $\frac{39}{100}$ dollars, proceeds of sale in said cause.

BEN FARRAR, *Assistant Treasurer.*

(Original.)

Filed June 21, 1864.

GEO. P. BOWEN, *Clerk.*

On the twenty-first day of May, in the year last aforesaid, came again the said Lawrence Weldon, district attorney of the United States for said district, and filed in the office of the clerk of said court a libel in behalf of the United States, and all others concerned, against seven hundred and eighty-eight bales and fifty-two sacks of cotton, in a cause of prize, which said libel is in the words and figures following, to wit:

17 *Libel.*

District court.—In prize.

UNITED STATES OF AMERICA, *Southern district of Illinois, ss:*

Be it remembered, that on the 21st day of May, A. D. 1864, before the Hon. Samuel H. Treat, judge of the said court, comes Lawrence Weldon,

district attorney for the United States for said district, in the name and behalf of the United States, and of all other persons concerned propounds and gives the said judge to understand and be informed that on or about the 1st day of April, A. D. 1864, on waters navigable to the sea by vessels of ten or more tons burden, or on lands adjacent thereto, the navy of the United States did seize, as lawful prize of war, the following, to wit: Seven hundred and eighty-eight bales and fifty-two sacks of cotton, which are now at the port of Cairo, and within the jurisdiction of this court. The said attorney alleges that all and singular the premises are true, and within the prize jurisdiction of this court, and that all of the said property so captured is lawful prize of war. Wherefore the said attorney prays that process
18 of attachment may issue against said property, and the monition of this honorable court in that behalf to be made, and that all persons interested in said property may be cited to appear and answer all and singular the allegations of this libel, and all due proceedings being had, your honor will adjudge and decree a condemnation of said property as prize of war, and that the proceeds thereof may be distributed according to law.

L. WELDON, *U. S. Att'y.*

Filed May 21, 1864.

GEO. P. BOWEN, *Clerk.*

Whereupon the following proceedings were had in said court, in said cause, and entered of record, to wit:

Order for process.

THE UNITED STATES
vs.
788 BALES and 52 SACKS COTTON. } In prize.

It is ordered by the court that a writ of monition issue in this cause, returnable on the second Monday of June next.

19 And thereupon a writ of attachment and monition issued against said property, directed to the marshal of the southern district of Illinois to execute, and was afterwards, to wit, on the twenty-third day of May, in the year last aforesaid, returned by said marshal duly executed, which said writ, together with the return of the marshal thereto, are in the words and figures following, to wit:

Attachment and monition.

THE UNITED STATES OF AMERICA, *Southern district of Illinois, ss:*

The United States of America to the marshal of the southern district of Illinois, greeting:

Whereas a libel hath been filed in the district court of the United States for the southern district of Illinois, on the twenty-first day of May, in the year of our Lord one thousand eight hundred and sixty-four, by L. Weldon, district attorney of the United States for said district, in the name and behalf of the United States, and of all other persons concerned, against seven
20 hundred and eighty-eight bales and fifty-two sacks of cotton, for reasons and causes in said libel mentioned, and praying the usual process and monition of the said court in that behalf to be made, and that all persons having, or pretending to have, any right, title, or interest therein, may be cited to appear and answer all and singular the matters in said libel articulately propounded, and that this court would be pleased to pronounce for the condemnation thereof as lawful prize of war: You are therefore commanded to attach the said seven hundred and eighty-eight bales and fifty-two sacks of cotton, and

to detain the same in your custody until the further order of this court respecting the same, and to give due notice, by publication in the Illinois State Register, for fourteen days previous to the day of trial, of such seizure and libel, to all persons claiming the said seven hundred and eighty-eight bales and fifty-two sacks of cotton, or knowing or having anything to say why this court should not pronounce against the same, according to the prayer of said libel, and that they be and appear before the said court, to be
21 held in and for the southern district of Illinois, at the United States court-room, in the city of Springfield, in said district, on the second Monday in June next, if that be a day of jurisdiction, if not, then on the first day of jurisdiction thereafter, at 10 o'clock in the forenoon of that day, then and there to interpose a claim for the same, and to make their allegations in that behalf; and what you shall have done in the premises, do you then and there make return, together with this writ.

Witness the Hon. Samuel H. Treat, judge of our said court, this twenty-first day of May, in the year of our Lord one thousand eight hundred and sixty-four, and of our independence the eighty-eighth.

[L. S.] GEO. P. BOWEN, *Clerk.*

Marshal's return.

By virtue of this writ, I have attached and seized the within described property, and made due proclamation of the same; and as said pro-
22 perty is perishable and liable to be destroyed, I respectfully recommend its sale, pending proceedings, on this 23d day of May, 1864.

D. L. PHILLIPS, *U. S. Marshal.*

Filed this 23d day of May, A. D. 1864.

GEO. P. BOWEN, *Clerk.*

Notice of libel and seizure.

UNITED STATES OF AMERICA, *Southern district of Illinois, ss:*

Whereas on the 21st day of May, A. D. 1864, L. Weldon, United States district attorney, filed a libel in the district court of the United States for the southern district of Illinois, against 788 bales and 52 sacks of cotton, in a cause of condemnation and forfeiture; and whereas, by virtue of process in due form of law, to me directed, returnable on the second Monday in June next, I have seized upon and taken the said property and have the same in my custody:

Notice is hereby given that a district court of the United States will be held at the United States court-room in the city of Springfield, on the
23 second Monday in June next, for the trial of the said premises, and the owner or owners, and all persons who have or claim any interest, are hereby cited to be and appear at the time and place aforesaid, to show cause, if any they have, why a final decree should not pass as prayed.

D. L. PHILLIPS, *U. S. Marshal.*

Sprinfigeld, May 23, 1864.

Certificate of publication.

The undersigned, publishers of the Illinois State Register, a newspaper published at Springfield, Illinois, do hereby certify that the annexed notice was published in said paper for fourteen days successively, the first publication thereof having been made on the 24th day of May, A. D. 1864, and the last on the 8th day of June, A. D. 1864.

Illinois State Register printing Co., publishers Illinois State Register, per—
D. O. C.

Filed June 13th, 1864.

GEO. P. BOWEN, *Clerk.*

24 On the said twenty-third day of May, in the year last aforesaid, the following further proceedings were had in said court, in said cause, and entered of record, to wit:

Order of sale pendente lite.

THE UNITED STATES
vs.
788 BALES and 52 SACKS OF COTTON. } In prize.

It appearing to the court from the return of the marshal to the writ of monition issued in this cause, that he has attached the said seven hundred and eighty-eight bales and fifty-two sacks of cotton, and that the same is perishable and liable to destruction, it is thereupon ordered by the court that the said property be sold by the marshal, under and by virtue of a writ of venditioni exponas, to be issued by the clerk of this court, in accordance with the rules and practice of the court, and that upon making such sale the marshal deposit the proceeds thereof with the assistant treasurer of the
25 United States at St. Louis, subject to the order of the court. It is further ordered that said writ be made returnable on the second Monday of June next, and that the marshal give notice of said sale, by publication in the newspaper designated by the court, and also in one or more newspapers published in the cities of Chicago, St. Louis, Cincinnati, and Cairo.

And thereupon a writ of venditioni exponas was issued, directed to the marshal of said district to execute, and was afterwards, to wit, on the twenty-first day of June, in the year last aforesaid, returned by said marshal duly executed, which said writ, together with the return of the marshal thereto, and the certificate of deposit filed therewith, are in the words and figures following, to wit:

Venditioni exponas.

THE UNITED STATES OF AMERICA, *Southern district of Illinois, ss:*

The United States of America to the marshal of the southern district of Illinois, greeting:

26 Whereas a libel was filed in the district court of the United States for the southern district of Illinois, on the twenty-first day of May, in the year of our Lord one thousand eight hundred and sixty-four, by L. Weldon, district attorney of the United States for said district, in the name and behalf of the United States, and of all other persons concerned, against seven hundred and eighty-eight bales and fifty-two sacks of cotton, praying that the same be condemned and sold for the causes in said libel alleged; and whereas the said seven hundred and eighty-eight bales and fifty-two sacks of cotton has been attached by process issued out of said district court in pursuance of the said libel, and is now in custody by virtue thereof, and such proceedings have been thereupon had that by the decree of said court in this cause, made on the twenty-third day of May, in the year of our Lord one thousand eight hundred and sixty-four, the said seven hundred and eighty-eight bales and 52 sacks of cotton was ordered to be sold by you, the said marshal, after giving ten days' notice of such
27 sale according to law: Therefore you, the said marshal, are hereby commanded to cause the said seven hundred and eighty-eight bales and fifty-two sacks of cotton to be sold, in manner and form upon the notice and at the time and place required by law, and that you deposit the money arising from such sale with the assistant treasurer of the United States at S. Louis; and have you a certificate thereof, together with a return of your proceedings hereon, in said court at Springfield, in said district, on the second

Monday of June, in the year of our Lord one thousand eight hundred and sixty-four; and have you also then and there this writ.

Witness the Hon. Samuel H. Treat, judge of our said court, this twenty-third day of May, in the year of our Lord one thousand eight hundred and sixty-four, and of our independence the eighty-eighth.

[L. S.] GEO. P. BOWEN, *Clerk.*

28 *Notice of sale.—United States marshal's sale in admiralty.*

By virtue of a writ of sale issued out of the United States district court for the southern district of Illinois, in admiralty, dated on the 23d day of May, A. D. 1864, will be sold at public sale, to the highest and best bidder, for cash, at Cairo, in said district, on the 8th day of June, A. D. 1864, the following described property, to wit: Seven hundred and eighty-eight bales and fifty-two sacks of cotton, ordered by the court to be sold for the benefit of whom it may concern.

D. L. PHILLIPS, *U. S. Marshal.*

Springfield, Ill's., May 23, 1864.

Certificate of publication.

The undersigned, publisher of the Illinois State Register, a newspaper published at Springfield, Illinois, do hereby certify that the annexed notice was published in said paper for ten days successively, the first publication
29 thereof having been made on the 24th day of May, A. D. 1864, and the last on the 4th day of June, A. D. 1864.

Illinois State Register Printing Co., publisher Illinois State Register, per— D. O. C.

Filed June 21st, 1864.

GEO. P. BOWEN, *Clerk.*

Marshal's return.

By virtue of this writ I sold, on the 8th day of June, A. D. 1864, the within described property, for the sum of three hundred twenty-one thousand eight hundred and twenty-four and $\frac{19}{100}$ dollars, and have deposited the same with the assistant United States treasurer at St. Louis, the certificate of which deposit I now return with this writ.

D. L. PHILLIPS, *U. S. Marshal.*

Filed June 21st, A. D. 1864.

GEO. P. BOWEN, *Clerk.*

Certificate of deposit.

$321,824\frac{19}{100}$ OFFICE OF ASSISTANT TREASURER U. S.,
St. Louis, Mo., June 18, 1864.

30 I certify that D. L. Phillips, U. S. marshal for the southern district of Illinois, has this day deposited to the credit of the district court of the United States for said district, in the case of the United States *vs.* 788 bales and 52 sacks of cotton, three hundred and twenty-one thousand eight hundred and twenty-four and $\frac{19}{100}$ dollars, proceeds of sale in said cause.

BEN FARRAR,
Assistant Treasurer.

(Original.)

Filed June 21, 1864.

GEO. P. BOWEN, *Clerk.*

On the said twenty-first day of May, in the year last aforesaid, the said Lawrence Weldon, district attorney of the United States for said district, also filed in the office of the clerk of said court a libel in behalf of the United States and all others concerned against four hundred and nine bales and one hundred and thirty-nine sacks of cotton, in a cause of prize, which said libel is the words and following, to wit:

31 *Libel.*

District court.—In prize.

UNITED STATES OF AMERICA, *Southern district of Illinois:*

Be it remembered that on the 21st day of May, A. D. 1864, before the Hon. Samuel H. Treat, judge of the said court, comes Lawrence Weldon, district attorney for the United States for said district, in the name and behalf of the United States, and of all other persons concerned, propounds and gives the said judge to understand and be informed that on or about the 1st day of April, A. D. 1864, on waters navigable to the sea by vessels of ten or more tons burden, or on lands adjacent thereto, the navy of the United States did seize as lawful prize of war the following, to wit: Four hundred and nine bales and one hundred and thirty-nine sacks of cotton, which are now at the port of Cairo, and within jurisdiction of this court. The said attorney alleges that all and singular the premises are true, and within the prize jurisdiction of this court, and that all of the said property so captured is law-
32 ful prize of war. Wherefore the said attorney prays that process of attachment may issue against said property, and the monition of this honorable court in that behalf to be made, and that all persons interested in said property may be cited to appear and answer all and singular the allegations of this libel; and all due proceedings being had, your honor will adjudge and decree a condemnation of said property as prize of war, and that the proceeds thereof may be distributed according to law.

L. WELDON, *U. S. Att'y.*

Filed May 21st, 1864.

GEO. P. BOWEN, *Clerk.*

Whereupon the following proceedings were had in said court in said cause and entered of record, to wit:

Order for process.

THE UNITED STATES. vs. 409 BALES and 139 SACKS COTTON. } In prize.

33 It is ordered by the court that a writ of monition issue in this cause, returnable on the second Monday of June next.

And thereupon a writ of attachment and monition was issued against said property, directed to the marshal of the southern district of Illinois, to execute, and was afterwards, to wit, on the twenty-third day of May, in the year last aforesaid, returned by said marshal duly executed, which said writ, together with the return of the marshal thereto, are in the words and figures following, to wit:

Attachment and monition.

THE UNITED STATES OF AMERICA, *Southern district of Illinois, ss:*

The United States of America to the marshal of the southern district of Illinois, greeting:

Whereas a libel hath been filed in the district court of the United States for the southern district of Illinois, on the twenty-first day of May, in the

year of our Lord one thousand eight hundred and sixty-four, by
34 L. Weldon, district attorney of the United States for said district, in the name and behalf of the United States, and of all other persons concerned, against four hundred and nine bales and one hundred and thirty-nine sacks of cotton, for reasons and causes in said libel mentioned, and praying the usual process and monition of the said court in that behalf to be made, and that all perons having or pretending to have any right, title, or interest therein, may be cited to appear and answer all and singular the matters in said libel articulately propounded, and that this court would be pleased to pronounce for the condemnation thereof, as lawful prize of war:

You are therefore commanded to attach the said four hundred and nine bales and one hundred and thirty-nine sacks of cotton, and to detain the same in your custody until the further order of this court repecting the same, and to give due notice, by publication in the Illinois State Register for fourteen days previous to the day of trial, of such seizure and libel, to all persons claiming the said four hundred and nine bales and one
35 hundred and thirty-nine sacks of cotton, or knowing or having anything to say why this court should not pronounce against the same, according to the prayer of said libel, and that they be and appear before the said court to be held in and for the southern district of Illinois, at the United States court-room, in the city of Springfield, in said district, on the second Monday in June next, if that be a day of jurisdiction, if not, then on the first day of jurisdiction thereafter, at ten o'clock in the forenoon of that day, then and there to interpose a claim for the same, and to make their allegations in that behalf; and what you shall have done in the premises, do you then and there make return, together with this writ.

Witness the Hon. Samnel H. Treat, judge of our said court, this twenty-first day of May, in the year of our Lord one thousand eight hundred and sixty-four, and of our independence the eighty-eighth.

[L. S.] GEO. P. BOWEN, *Clerk*

36 *Marshal's return.*

By virtue of this writ I have attahced and seized the with indescribed property, and made due proclamation thereof, and as said property is perishable and liable to be destroyed, I respectfully recommend its sale, pending proceedings, on the 23d day of May, 1864.

D. L. PHILLIPS, *U. S. Marshal.*

Filed this 23d day of May, A. D. 1864.

GEO. P. BOWEN, *Clerk.*

Notice of libel and seizure.

UNITED STATES OF AMERICA, *Southern district of Illionis, ss:*

Whereas, on the 21st day of May, A. D. 1864, L. Weldon, United States district attorney, filed a libel in the district court of the United States for the southern district of Illinois, against 409 bales and 139 sacks of cotton, in a cause of condemnation and forfeiture; and whereas, by virtue of process in due form of law to me directed, returnable on the second Monday in
37 June next, I have seized upon and taken the said property, and have the same in my custody:

Notice is hereby given that a district court of the United States will be held at the United States court-room in the city of Springfield, on the second Monday in June next, for the trial of the said premises, and the owner or owners, and all persons who have or claim any interest, are hereby cited to be and appear at the time and place aforesaid, to show cause, if any they have, why a final decree should not pass as prayed.

D. L. PHILLIPS, *U. S. Marshal.*

Springfield, Ill., May 22, 1864.

Certificate of publication.

The undersigned, publishers of the Illinois State Register, a newspaper published at Springfield, Illinois, do hereby certify that the annexed notice was published in said paper for fourteen days successively, the first publication thereof having been made on the 24th day of May, A. D. 1864,
38 and the last on the 8th day of June, A. D. 1864.

Illinois State Register Printing Co., publishers Illinois State Register, per— D. O. C.

Filed June 13th, 1864.

GEO. P. BOWEN, *Clerk.*

On the said twenty-third day of May, in the year last aforesaid, the following further proceedings were had in said court, and entered of record, to wit:

Order of sale pendente lite.

THE UNITED STATES
vs.
409 BALES and 139 SACKS OF COTTON. } In prize.

It appearing to the court from the return of the marshal to the writ of monition issued in this cause, that he has attached the said four hundred and nine bales and one hundred and thirty-nine sacks of cotton, and that the same is perishable and liable to be destroyed, it is thereupon ordered by the court that the said property be sold by the marshal under and by
39 virtue of a writ of venditioni exponas to be issued by the clerk of this court in accordance with the rules and practice of the court, and that upon making such sale the marshal deposit the proceeds thereof with the assistant treasurer of the United States at St. Louis, subject to the order of the court. It is further ordered that said writ be made returnable on the second Monday of June next, and that the marshal given notice of said sale by publication in the newspaper designated by the court, and also in one or more newspapers published in the cities of Chicago, St. Louis, Cincinnati, and Cairo.

And thereupon a writ of venditioni exponas was issued, directed to the marshal of said district to execute, and was afterwards, to wit, on the twenty-first day of June in the year last aforesaid, returned by said marshal duly executed, which said writ, together with the return of the marshal thereto and the certificate of deposit filed therewith, are in the words and
40 figures following, to wit:

Venditioni exponas.

THE UNITED STATES OF AMERICA, *Southern district of Illinois, ss:*

The United States of America to the marshal of the southern district of Illinois, greeting:

Whereas a libel was filed in the district court of the United States for the southern district of Illinois, on the twenty-first day of May, in the year of our Lord one thousand eight hundred and sixty-four, by L. Weldon, district attorney of the United States for said district, in the name and behalf of the United States and of all other persons concerned, against four hundred and nine bales and one hundred and thirty-nine sacks of cotton, praying that the same may be condemned and sold for the causes in said libel alleged; and whereas the said four hundred and nine bales and one hundred and thirty-nine sacks of cotton has been attached by process issued

41 out of said district court in pursuance of the said libel, and is now in custody, by virtue thereof, and such proceedings have been thereupon had that by the decree of said court in this cause made on the twenty-third day of May, in the year of our Lord one thousand eight hundred and sixty-four, the said four hundred and nine bales and one hundred and thirty-nine sacks of cotton was ordered to be sold by you, the said marshal, after giving ten days' notice of such sale according to law: Therefore you, the said marshal, are hereby commanded to cause the said four hundred and nine bales and one hundred and thirty-nine sacks of cotton to be sold, in manner and form, upon the notice and at the time and place required by law, and that you deposit the money arising from such sale with the assistant treasurer of the United States at St. Louis; and have you a certificate thereof, together with a return of your proceedings hereon, in said court, at Springfield, in said district, on the second Monday of June, in the year of our
42 Lord one thousand eight hundred and sixty-four; and have you also then and there this writ.

Witness the Hon. Samuel H. Treat, judge of our said court, this twenty-third day of May, in the year of our Lord one thousand eight hundred and sixty-four, and of our independence the eighty-eighth

[S. L.] GEO. P. BOWEN, *Clerk.*

Notice of sale.—United States marshal's sale in admiralty.

By virtue of a writ of sale issued out of the United States district court for the southern district of Illinois, in admiralty, dated on the 23d day of May, A. D. 1864, will be sold at public sale to the highest and best bidder for cash, at Cario, in said district, on the 8th day of June, A. D. 1864, the following described property, to wit: Four hundred and nine bales and 139 sacks of cotton, the same having been ordered by the court to be sold for the benefit of whom it may concern.

43 D. L. PHILLIPS, *U. S. Marshal.*

Springfield, Ill., May 23, 1864.

Certificate of publication.

The undersigned, publisher of the Illinois State Register, a newspaper published at Springfield, Illinois, do hereby certify that the annexed notice was published in said paper for ten days sucessively, the first publication thereof having been made on the 24th day of May, A. D. 1864, and the last on the 4th day of June, A. D. 1864.

Illinois States Reg. Printing Co., publishers Illinois State Register—per D. O. C.

Filed June 21, 1864.

GEO. P. BOWEN, *Clerk.*

Marshal's return.

By virtue of this writ I sold, on the 8th day of June, A. D. 1864, the within-described property, for the sum of one hundred and seventy-
44 six thousand nine hundred and fifty-eight and 36-100 dollars, and have deposited the same with the assistant United States treasurer at St Louis, the certificate of which deposit I now return with this writ.

D. L. PHILLIPS, *U. S. Marshal.*

Filed June 21st, 1864.

GEO. P. BOWEN, *Clerk.*

Certificate of deposit.

$176,958 36 OFFICE OF ASSISTANT TREASURER U. S.,
St. Louis, Mo., June 18, 1864.

I certify that D. L. Phillips, U. S. marshal for the southern district of Illinois, has this day deposited to the credit of the district court of the United States for said district, in the case of the United States *vs.* 409 bales and 139 sacks of cotton, one hundred seventy-six thousand nine hundred and fifty-eight and 36-100 dollars, proceeds of sale in said cause.

BEN. FARRAR, *Assistant Treasurer.*

(Original.)
Filed June 21st, 1864.

GEO. P. BOWEN, *Clerk.*

45 On the third day of June, in the year last aforesaid, came again the said Lawrence Weldon, district attorney of the United States for said district, and filed in the office of the clerk of said court a libel in behalf of the United States and all others concerned, against one thousand bales of cotton, in a cause of prize, which said libel is in the words and figures following, to wit:

Libel.

District court.—In prize.

UNITED STATES OF AMERICA, *Southern district of Illinois, ss:*

Be it remembered that on the third day of June, A. D. 1864, before the Hon. Samuel H. Treat, judge of the said court, comes Lawrence Weldon, district attorney of the United States for said district, in the name and behalf of the United States and of all other persons concerned, pro-
46 pounds and gives the said judge to understand and be informed that on or about the 20th day of May, A. D. 1864, in waters navigable to the sea by vessels of ten or more tons burden, or on lands adjacent thereto, the navy of the United States did seize as lawful prize of war the following, to wit, 1,000 bales cotton, which are now at the port of Cairo and within the jurisdiction of this court.

The said attorney alleges that all and singular the premises are true and within the prize jurisdiction of this court, and that all of the said property so captured is lawful prize of war. Wherefore the said attorney prays that process of attachment may issue against said property, and the monition of this honorable court in that behalf to be made, and that all persons interested in said property may be cited to appear and answer all and singular the allegations of this libel; and all due proceedings being had your honor will adjudge and decree a condemnation of said property as prize of war, and that the proceeds thereof may be distributed according to law.

L. WELDON, *U. S. Att'y.*

Filed June 3d, A. D. 1864.

GEO. P. BOWEN, *Clerk.*

Whereupon the following proceedings were had in said court, in
47 said cause, and entered of record, to wit.

Order for process.

THE UNITED STATES
vs.
1,000 BALES OF COTTON. } In prize.

It is ordered by the court that a writ of monition issue in this cause, returnable on the third Monday of June instant.

And therefore a writ of attachment and monition was issued against said property, directed to the marshal of the southern district of Illinois, to execute; and was afterwards, to wit, on the fourth day of June, in the year last aforesaid, returned by said marshal duly executed; which said writ, together with the return of the marshal thereto, are in the words and figures following, to wit:

Attachment and monition.

THE UNITED STATES OF AMERICA, *Southern district of Illinois, ss:*

48 The United States of America to the marshal of the southern district of Illinois, greeting:

Whereas a libel hath been filed in the district court of the United States for the southern district of Illinois, on the third day of June, in the year of our lord one thousand eight hundred and sixty-four, by Lawrence Weldon, district attorney of the United States for said district, in the name and behalf of the United States, and of all others concerned, against one thousand bales of cotton, for reasons and causes in said libel mentioned, and praying the usual process and monition of the said court in that behalf to be made, and that all persons having or pretending to have any right, title, or interest therein may be cited to appear and answer all and singular the matters in said libel articulately propounded, and that this court would be pleased to pronounce for the condemnation thereof as lawful prize of war: You are therefore commanded to attach the said one thousand bales of cotton, and to detain the same in your custody until the further order of this court respecting the same, and to give due notice by publication in the Illinois State Register, for fourteen days previous to the day of trial, of such seizure
49 and libel, to all persons claiming the said one thousand bales of cotton, or knowing or having anything to say why this court should not pronounce against the same, according to the prayer of said libel, and that they be and appear before the said court to be held in and for the southern district of Illinois, at the United States court-room, in the city of Springfield, in said district, on the third Monday in June instant, if that be a day of jurisdiction, if not, then on the first day of jurisdiction thereafter, at 10 o'clock in the forenoon of that day, then and there to interpose a claim for the same, and to make their allegations in that behalf; and what you shall have done in the premises, do you then and there make return, together with this writ.

Witness the Hon. Samuel H. Treat, judge of our said court, this third day of June, in the year of our Lord one thousand eight hundred and sixty-four, and of our independence the eighty-eighth.

[L. S.] GEO. P. BOWEN, *Clerk.*

Marshal's return.

50 By virtue of this writ I have, this 4th day of June, 1864, attached the within described property and made proclamation thereof; and

as said cotton is perishable and liable to be destroyed, I respectfully recommend its sale, pending proceedings against the same.

D. L. PHILLIPS, *U. S. Marshal.*

Filed this 4th day June, A. D. 1864.

GEO. P. BOWEN, *Clerk.*

Notice of libel and seizure.

UNITED STATES OF AMERICA, *Southern district of Illinois, ss:*

Whereas, on the third day of June, A. D. 1864, L. Weldon, United States district attorney, filed a libel in the district court of the United States for the southern district of Illinois, against 1,000 bales cotton, in a cause of condemnation and forfeiture; and whereas, by virtue of process in due form of law to me directed, returnable on the third Monday in June instant, I have seized upon and taken the said property and have the same in my
51 custody: Notice is hereby given that a district court of the United States will be held at the United States court-room in the city of Springfield, on the third Monday in June instant, for the trial of the said premises, and the owner or owners, and all persons who have or claim any interest, are hereby cited to be and appear at the time and place aforesaid, to show cause, if any they have, why a final decree should not pass as prayed.

D. L. PHILLIPS, *U. S. Marshal.*

Springfield, Ill., June 4, 1864.

Certificate of publication.

The undersigned, publishers of the Illinois State Register, a newspaper published at Springfield, Illinois, do hereby certify that the annexed notice was published in said paper for fourteen days successively, the first publication thereof having been made on the 5th day of June, A. D. 1864, and the last on the 20th day of June, A. D. 1864.

Illinois State Register Printing Co., publishers Illinois State Register, per—

D. O. CROWLEY.

52 Filed June 20th, 1864.

GEO. P. BOWEN, *Clerk*

On the said fourth day of June, in the year last aforesaid, the following proceedings were had in said court, in said cause, and entered of record, to wit:

Order of sale pendente lite.

THE UNITED STATES
vs.
1,000 BALES OF COTTON. } In prize.

It appearing to the court from the return of the marshal to the writ of monition issued to this cause that he has attached the said one thousand bales of cotton, and that the same is perishable and liable to be destroyed, it is thereupon ordered by the court that the said property be sold by the marshal, under and by a virtue of a writ of venditioni exponas to be issued by the clerk of this court, in accordance with the rules and practice of the court, and that upon making such sale the marshal deposit the proceeds thereof with the assistant treasurer of the United States at St. Louis,
53 subject to the order of the court.

It is further ordered that said writ be made returnable on the fourth

Monday of June, instant, and that the marshal give notice of said sale by publication in the newspaper designated by the court, and also in one or more newspapers published in the cities of Chicago, St. Louis, Cincinnati, and Cairo.

And thereupon a writ of venditioni exponas was issued, directed to the marshal of said district to execute, and was afterwards, to wit, on the twenty-ninth day of July, in the year last aforesaid, returned by said marshal duly executed, which said writ, together with the return of the marshal thereto, and the certificate of deposit filed therewith, are in the words and figures following, to wit:

Venditioni exponas.

THE UNITED STATES OF AMERICA, *Southern district of Illinois, ss:*

54 The United States of America to the marshal of the southern district of Illinois, greeting:

Whereas a libel was filed in the district court of the United States for the southern district of Illinois, on the third day of June, in the year of our Lord one thousand eight hundred and sixty-four, by Lawrence Weldon, district attorney of the United States for said district, in the name and behalf of the United States, and of all others concerned, against one thousand bales of cotton, praying the same may be condemned and sold for the causes in said libel alleged; and whereas the said one thousand bales of cotton has been attached by process issued out of said district court in pursuance of the said libel, and is now in custody by virtue thereof, and such proceedings have been thereupon had that by the decree of said court in this cause made on the fourth day of June, in the year of our Lord one thousand eight hundred and sixty-four, the said one thousand bales of cotton was ordered to be sold by you, the said marshal, after giving ten days' notice of such sale according to law:

55 Therefore you, the said marshal, are hereby commanded to cause said one thousand bales of cotton to be sold, in manner and form, upon the notice and at the place required by law, and that you deposit the money arising from such sale with the assistant treasurer of the United States at St. Louis; and have you a certificate thereof, together with a return of your proceedings hereon, in said court at Springfield, in said district, on the fourth Monday of June, in the year of our Lord one thousand eight hundred and sixty-four; and have you also then and there this writ.

Witness the Hon. Samuel H. Treat, judge of our said court, this fourth day of June, in the year of our Lord one thousand eight hundred and sixty-four, and of our independence the eighty-eighth.

[L. S.] GEO. P. BOWEN, *Clerk.*

Notice of sale.—United States marshal's sale in admiralty.

By virtue of a writ of sale issued out of the United States district
56 court for the southern district of Illinois, in admiralty, dated on the 4th day of June, A. D. 1864, will be sold at public sale to the highest and best bidder for cash, at Cairo, in said district, on the 22d day of June, A. D. 1864, the following described property, to wit: One thousand bales of cotton, the same having been ordered by the court to be sold for the benefit of whom it may concern.

D. L. PHILLIPS, *U. S Marshal.*

Springfield, Ill's, June 6, 1864.

Certificate of publication.

The undersigned, publisher of the Illinois State Register, a newspaper published at Springfield, Illinois, do hereby certify that the annexed notice was published in said paper for ten days successively, the first publication thereof having been made on the 7th day of June, A. D, 1864, and the last on the 18th day of June, A. D. 1864.

Illinois State Register Printing Co., publishers Illinois State Register,
per— D. O. CROWLEY.

57 Filed July 29th, 1864.

GEO. P. BOWEN, *Clerk.*

Marshal's return

By virtue of this writ, I sold on the 22d day of June, A. D. 1864, the within described cotton, for the sum of four hundred forty-seven thousand four and 96-100 dollars, and have deposited the same with the assistant U. S. treasurer at St. Louis, Mo., the certificate of which deposit is herewith returned, July 28th, 1864.

D. L. PHILLIPS, *U. S. Marshal.*

Filed July 29th, A. D. 1864.

GEO. P. BOWEN, *Clerk.*

Certificate of deposit.

$447,004 96. OFFICE OF ASSISTANT TREASURER U. S.,
St. Louis, Mo., July 27, 1864.

I certify that D. L. Phillips, U. S. marshal for the southern district of Illinois, has this day deposited to the credit of the district court of the United States for said district, in the case of the United States *vs.* one thou-
58 sand bales of cotton, four hundred forty-seven thousand and four 96-100 dollars, proceeds of sale in said cause.

H. H. WERUSE,
(Original.) *Act'g Assistant Treasurer.*

Filed July 29th, 1864.

GEO. P. BOWEN, *Clerk.*

On the seventh day of June, in the year last aforesaid, the following proceedings were had in said court, and entered of record, to wit:

Motion to consolidate causes.

THE UNITED STATES
vs.
650 BALES COTTON, &C.

THE UNITED STATES
vs.
788 BALES and 52 SACKS COTTON.

THE UNITED STATES
vs.
409 BALES and 139 SACKS COTTON.

THE UNITED STATES
vs.
1,000 BALES OF COTTON.

Now come Messrs. Edwards & Brown, Hay & Cullom, proctors for Cornelius Voorhies *et al.*, and enter their motion to consolidate the above-entitled causes.

59 And afterwards, to wit, on the fourteenth day of June, in the year last aforesaid, the following further proceedings were had in said cause, and entered of record, to wit:

Order of consolidation

THE UNITED STATES
vs.
650 BALES COTTON, &c.

THE UNITED STATES
vs.
788 BALES and 52 SACKS COTTON.

THE UNITED STATES
vs.
409 BALES and 139 SACKS COTTON.

THE UNITED STATES
vs.
1,000 BALES OF COTTON.

The court having fully considered and being now sufficiently advised upon the motion heretofore entered by Messrs. Edwards, Brown, Hay, and Cullom, proctors for Cornelius Voorhies and others, to consolidate the above-entitled causes—

It is ordered and decreed that said motion be sustained, and the said causes be consolidated.

And afterwards, to wit, on the sixteenth day of June, in the year last aforesaid, the following proceedings were had in said court, and entered of record, to wit:

60 *Order for proof.*

It is ordered by the court that either pary to any prize case pending in this court have leave to take depositions therein, upon commission, or upon giving the adverse party legal notice of the time and place of taking the same.

And afterwards, to wit, on Friday, the ninth day of June, in the June term of said court, in the year last aforesaid, the following further proceedings were had in said court and entered of record, to wit:

THE UNITED STATES
vs.
650 BALES OF COTTON, &c.,
788 bales and 52 sacks of cotton,
409 bales and 139 sacks of cotton,
and 1,000 bales of cotton.
} Libel in prize.

On motion of R. M. Corwine, proctor for John H. McKee, claimant for one hundred and thirty-seven bales of cotton, and certain leather, and
61 bagging, and rope, part and parcel of the property libelled in this consolidated cause, leave is given to said John McKee to intervene, and his answer is thereupon filed, together with the affidavit of W. W. Withenbury, his agent.

And on the same day, to wit, on the ninth day of June, in the year of our Lord one thousand eight hundred and sixty-five, came John H. McKee, claimant of one hundred and thirty-seven bales of cotton, one hundred coils of rope, sixteen bales, eight rolls, and one hundred and sixty pieces of bagging, and twenty-nine pieces of leather, libelled herein, by R. M. Corwine,

esq., his procter, and filed in the office of the clerk of said court his claim and answer in said entitled cause, which said claim and answer, together with the affidavit of W. W. Withenbury, filed therewith, are in the words and figures following, to wit:

UNITED STATES OF AMERICA *Southern district of Illinois:*

The answer of John H. McKee, a citizen and resident of the city of New Orleans, in the State of Louisiana, who claims to own one hundred and thirty-seven bales of the cotton libelled in this case, and all the leather, bagging, and rope likewise libelled in this case, to the libel of the honorable Lawrence Weldon, filed on behalf of the United States, as well as all other persons concerned in, or who claim, or may claim, said property, or the proceeds arising from the sale thereof, in the case of the United States against 650 bales and 788 and 409 and 1,000 bales of cotton contained in the consolidated cases, the said 137 bales of cotton and the said leather, bagging, and rope before mentioned being part of the property in the said libel mentioned.

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And now, proceeding to answer, said John H. McKee doth allege and propound as follows, to-wit:

1st. That the said John H. McKee is the true, bona fide, and lawful owner of said property, and no one else has, or did have, when it was seized in the proceedings set out in this case, or has had since, any better or superior title thereto.

2d. That it is true, as alleged in said libel, that said cotton and other property was seized by persons belonging to the navy of the United States, or the gunboat service under command of Rear-Admiral Porter, but this respondent denies that said property was lawful prize of war, or that it was liable to be lawfully captured, or that it was "abandoned or captured property," or that it belonged to the enemies of the United States, so that it was liable to confiscation or forfeiture, but on the contrary that said property was unlawfully seized and taken posession of by the said naval persons, on land, many hundred miles from the sea, near Red river, one of the inland waters of the United States, under pretence and accompanied with the voluntary promise that the same would be taken and held by the naval authorities for the benefit and profit of the true and lawful owners; the same when so seized being on storage with a warehouseman, who held it then and there for the sole benefit of the respondent, as his agent and custodian; of all which said parties connected with said gunboat service had notice.

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3d. Said John H. McKee further alleges that he is and was, at the time of said unlawful seizure, is now, and has hitherto always been, a law-abiding and loyal citizen of the State of Louisiana and the United States, residing in New Orleans in said State, owing and doing allegiance to the United States, and to no other whatever; and he further alleges that he has taken no part whatever in the present rebellion against the government of the United States, and he has not voluntarily at any time resided within the enemies' lines, without the territory covered and protected by the laws of the United States.

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4th. Wherefore this respondent prays the honorable court to pronounce against the demand of the libellants, in the aforesaid libel mentioned and set forth, as to said property so claimed by this respondent being part and parcel of the property embraced in the said consolidated case, and that the same be restored to him, and, in case the same has been sold by order of this honorable court, then that the proceeds of said property be paid over to this respondent, together with his reasonable costs and expenses.

W. W. WITHENBURY,
Agent for J. H. McKee.

R. M. CORWINE, *Proctor.*

65 UNITED STATES OF AMERICA, *Southern district of Illinois, ss:*

This day personally appeared before the undersigned, clerk of the district court of the United States for said district, W. W. Withenbury, who, being duly sworn, on oath states that he is the duly authorized agent of John H. McKee to file the foregoing claim and answer; that the said answer, and the matters and things therein contained, are true in substance and in fact as he verily believes.

Witness my hand and the seal of said court this ninth day of June, A. D. 1865.

[SEAL.] GEO. P. BOWEN, *Clerk.*

Filed June 9th, 1865.

GEO. P. BOWEN, *Clerk.*

THE UNITED STATES OF AMERICA, *Southern district of Illinois:*

Wellington W. Withenbury states that he is the duly authorized agent for John H. McKee, of New Orleans, in the State of Louisiana, to intervene
66 for him as the true and lawful claimant of one hundred and thirty-seven bales of cotton, and certain leather and bagging and rope, seized by certain parties connected with the United States gunboats on Red river, and by them transported to Cairo, Illinois, the same being libelled by the Hon. Lawrence Weldon on behalf of the United States, as prize of war, in the United States district court for the southern district of Illinois, in the consolidated cases of the U. States *vs.* 650 bales of cotton, 788 bales of cotton, 409 bales of cotton, and one thousand bales of cotton. Said Withenbury states that the said John H. McKee is a lawful, loyal, and trustworthy citizen of the city of New Orleans; has always been true and loyal to the government of the United States, and has never recognized by act, word, or deed the so-called confederate government; has never given it aid or comfort, or in any way directly or indirectly supplied it or its armies.

Affiant further states that he is intimately acquainted with said McKee and his business in New Orleans, and his personal sentiments, having
67 known him since 1863, personally and in business transactions as a member of the firm of C. A. Weed & Co., a large mercantile house in N. Orleans.

Affiant further says that he was very familiar with said one hundred and thirty-seven bales of cotton, and said leather and bagging and rope, having been at Alexandria a great deal during the time it was stored there, and was in the daily habit of seeing it. He further states that of his own individual knowledge he knows that said property belonged to John H. McKee aforesaid when it was seized, and that it had been his for some time prior thereto; that he had purchased it from Andrew W. McKee, to whom it belonged individually; and affiant well knows that it was long held by Adolph Rachal, the warehouseman, for the sole benefit of said John H. McKee, at the time it was seized.

Affiant further states that he was at Alexandria when the said property was taken from the possession and charge of said Rachal, the agent of the said J. H. McKee, and that he told Admiral David D. Porter that the
68 said property was not the property of the confederate government, but that it belonged to John H. McKee, of New Orleans, who was not then present in Alexandria. Admiral Porter then told this affiant that he was not taking said property away for the purpose of confiscating or libelling it as prize of war, but solely to prevent the rebels from destroying it, and that it would be restored to the lawful owners at Cairo, but in violation of these pledges the said property was carried to Cairo and libelled and sold as prize of war.

W. W. WITHENBURY.

Subscribed and sworn to before me this 9th day of June, A. D. 1865.

GEO. P. BOWEN, *Clerk.*

Filed June 9th, 1865.

GEO. P. BOWEN, *Clerk.*

And afterwards, to wit, on Friday the twenty-third day of June, in the June term of said court, in the year last aforesaid, the following further proceedings were had in said court, in said entitled cause, and entered of record, to wit:

69 THE UNITED STATES
vs.
SIX HUNDRED AND FIFTY BALES OF COTTON, &c., SEVEN hundred and eighty-eight bales and fifty-two sacks of cotton, four hundred and nine bales and one hundred and thirty-nine sacks of cotton, and one thousand bales of cotton. } In prize.

Now come the district attorney and the captors, by their counsel, and now comes also John H. McKee, claimant of one hundred and thirty-seven bales of cotton, one hundred coils of rope, sixteen bales, eight rolls, and one hundred and sixty pieces of bagging, and twenty-nine pieces of leather, by R. M. Corwine, esq., his proctor, and thereupon this cause came on to be heard upon the libels, the claim and answer of the said claimant, and the proofs on file, and the court having heard the same, and not being sufficiently advised
70 in the premises, takes time to consider. And afterwards, to wit, on Monday, the sixth day of November, in the November special term of said court, in the year last aforesaid, the following further proceedings were had in said court in said entitled cause, and entered of record, to wit:

THE UNITED STATES
vs.
SIX HUNDRED AND FIFTY BALES OF COTTON, ONE HUNDRED coils of rope, sixteen bales, eight rolls, and one hundred and sixty pieces of bagging, and twenty-nine pieces of leather; seven hundred and eighty-eight bales, fifty-two sacks of cotton, four hundred and nine bales, one hundred and thirty-nine sacks of cotton, and one thousand bales of cotton. } In prize.

This cause having been heard upon the libels, the claim and answer of John H. McKee, claimant of one hundred and thirty-seven bales of cotton, one hundred coils of rope, sixteen bales, eight rolls, and one hundred and sixty pieces of bagging, and twenty-nine pieces of leather, the proofs
71 on file, and the court having considered, and being now sufficiently advised in the premises, finds that the said claimant is not entitled to the said one hundred and thirty-seven bales of cotton and the said rope, bagging, and leather, or the proceeds thereof.

It is therefore ordered, adjudged, and decreed by the court that the said claim be dismissed at the cost of the claimant, and that execution issue therefor.

And now comes the said claimant, John H. McKee, by R. M. Corwine, esq., his proctor, and prays an appeal to the Supreme Court of the United States. It is therefore ordered by the court that an appeal be allowed said claimant, upon his entering into bond in the penalty of two thousand dollars, with sufficient security, on or before the first day of January next, conditioned to answer all damages and costs that shall be adjudged against him if he shall fail to make good his plea.

72 And afterwards, to wit, on the twenty-seventh day of December, in the year last aforesaid, came again the said claimant, by his said procter, and filed in the office of the clerk of said court his appeal bond in said entitled cause, which said appeal bond is in the words and figures following, to wit:

Supreme Court of the United States.

THE UNITED STATES
vs
650 BALES OF COTTON, &c., 788 BALES, 52 SACKS OF COTTON, 409 bales, 139 sacks of cotton, and 1,000 bales of cotton.
JOHN H. MCKEE, claimant of 137 bales of cotton.
} In prize.

Appeal from the district court of the United States for the southern district of Illinois.

Know all men by these presents, that we, John McKee, as principal, and Charles Ridgely, as surety, are held and firmly bound unto the United States in the sum of two thousand dollars, to be paid to the said United
73 States, to which payment well and truly to be made we bind ourselves, and each of us, jointly and severally, and our and each of our heirs, executors, and administrators, firmly by these presents.

Sealed with our seals, and dated this twenty-seventh day of December, A. D. 1865.

The condition of this obligation is such, that whereas the above-named John H. McKee has prayed an appeal to the Supreme Court of the United States, to reverse a decree rendered by the district court of the United States for the southern district of Illinois, on the sixth day of November, A. D. 1865, in favor of the United States, and against the said John H. McKee, in the above-entitled cause, which appeal has been allowed:

Now, therefore, if the above-named John H. McKee shall prosecute his said appeal to effect, and answer all damages and costs that shall be adjudged against him if he shall fail to make good his plea, then this obligation shall be void; otherwise the same shall be and remain in full force and virtue.

JOHN H. McKEE, [SEAL.]
By W. W. WITHENBURY, *his Attorney in fact.*
CHARLES RIDGLEY. [SEAL.]

74 Approved Dec. 27, 1865.

S. H. TREAT, *Dist. Judge.*

Filed Dec. 27th, 1865.

GEO. P. BOWEN, *Clerk.*

The naval reports, and the documents and papers accompanying the same, transmitted to the court by the captors, and read in evidence upon the hearing of said cause, are in the words and figures following, to wit:

Naval reports and the documents.

Letter of Captain A. M. Pennock, reporting capture of 650 bales cotton, &c.

[Extract.]

OFFICE MISSISSIPPI SQUADRON,
Mound City, Ill., May 13th, 1864.

SIR: I have the honor to inform you that the following cotton, captured by vessels belonging to this squadron, under command of Rear-Admiral Porter, is now at Cairo, Illinois, stored with Messrs. Holliday & Co.:

103 bales cotton taken by the Red River expedition. * *

75 63 bales cotton taken by the Red River expedition; 484 bales cotton, taken by the Red River expedition, 17 bales of which are put in bags, the bales having broken open. * * * * *

I also report the following articles as prize to the Red River expedition, viz: 100 coils rope, 16 bales, 8 rolls, and 160 pc's bagging, and 29 pc's leather.

The following letters I enclose to you: * * * *

One from Lieut. Com'dr K. R. Breese, comd'g U. S. S. Black Hawk, concerning 63 bales cotton, taken by the Red River expedition. * *

And one from Lieut. Com'dr K. R. Breese, comd'g U. S. S. Black Hawk, concerning a lot of bagging, &c., taken by the Red River expedition.

Very respectfully, your ob't serv't,

A. M. PENNOCK,
Fleet Capt. and Com'd't of Station.

Hon. S. H. TREAT,
U. S. Judge for Southern Dist. of Illinois, Springfield, Ill.

Filed May 18th, 1864.

GEO. P. BOWEN, *Clerk.*

76 Letter of Lt. Com'dr K. R. Breese, concerning 63 bales cotton.

U. S. S. BLACK HAWK,
Alexandria, La., April 7th, 1864.

SIR: By order of Admiral Porter, I send you 63 bales of cotton, prize to the Red River expedition.

The larger portion of this is confederate, and the balance was baled by Capt. Langthorne, report of which, &c., has gone to the admiral.

Respectfully, &c., your ob'd't serv't,

K. R. BREESE, *Lt. Com'dr, Com'g.*

Capt. A. M. PENNOCK,
Capt. Fleet and Com'd't Station.

Filed May 18, 1864.

GEO. P. BOWEN, *Clerk.*

Letter of Lt. Com'd't K. R. Breese, enclosing list of bagging, &c.

U. S. S. BLACK HAWK,
April 20, 1864.

SIR: I have the honor to enclose you a list of bagging, &c., captured at Alexandria, La., by the Red River expedition, and belonging to the Confederate States.

Very respectfully, &c., your ob'd't serv't,

K. R. BREESE, *Lt. Com.*

To Capt. PENNOCK,
Comd'g Naval Station, Cairo, Ill.

77 Filed May 18, 1864.

GEO. P. BOWEN, *Clerk.*

List of bagging, &c., accompanying letter of Lt. Com'dr K. R. Breese.

MISSISSIPPI SQUADRON, FLAG-SHIP BLACK HAWK,
April 20th, 1864.

List of stores put on board U. S. S. New National from flag-ship Black Hawk, April 19th, 1864:

123 pieces bagging.

8 rolls bagging.
16 bales bagging.
100 coils rope.
34 sides leather.

K. R. BREESE, *Lt. Comd'g.*

Filed May 18, 1864.

GEO. P. BOWEN, *Clerk.*

Letter of Rear-Admiral D. D. Porter, concerning 484 bales of cotton, reported as belonging to Red River expedition.

MISSISSIPPI SQUADRON, FLAG-SHIP BLACK HAWK,
Mound City, May 31, 1864.

78 SIR: On the 13th inst. Captain Pennock reported to you 484 bales cotton belonging to the Red River ex. This should have been put down to the credit of the Ouachita river, and the following vessels are entitled to share: Black Hawk, Fort Hindman, Cricket, Eastport, Lafayette, Neosho, Ozark, Osage, Choctaw, Chillicothe, Louisville, Carondelet, Benton, Pittsburg, Mound City, Essex, Lexington, Ouachita, Gazelle, Kenwood, Juliet, Avenger.

Very respectfully, &c.

DAVID D. PORTER, *Rear-Admiral.*

Hon. S. H. TREAT,
U. S. Dist. Judge, Springfield, Illinois.

Filed June 3d, 1864.

GEO. P. BOWEN, *Clerk.*

Letter of Capt. A. M. Pennock, reporting capture of 788 bales, 52 sacks, and 1,412 bales, 139 sacks cotton, by Red and Ouachita River expedition.

OFFICE OF MISSISSIPPI SQUADRON,
Mound City, Ills., May 18, 1864.

79 SIR: I have the honor to inform you that the following cotton is now stored with Messrs. Halliday Bro's, Cairo, Illinois it having been captured by vessels belonging to this squadron, under command of Rear-Admiral D. D. Porter, viz: 788 bales and 52 sacks of cotton, captured by the Red and Ouachita River expedition; 1,412 bales and 139 sacks of cotton, captured by the Ouachita river expedition.

I herewith enclose a letter, dated May 2d, 1864, from Lieut. Com'dr K. R. Breese, comd'g U. S. S. Black Hawk, in relation to the former lot, and a letter from Lieut. Com'dr F. M. Ramsay, comd'g U. S. S. Choctaw, dated April 21st, 1864, in relation to the latter lot.

Very respectfully, your ob't serv't,

A. M. PENNOCK,
Fleet Capt. and Com'd't Station.

Hon. S. H. TREAT,
U. S. Judge Southern Dist. of Illinois, Springfield, Ills.

Filed May 21st, 1864.

GEO. P. BOWEN, *Clerk.*

Letter of Lt. Com'r K. R. Breese, concerning cotton captured on Red and Ouachita rivers.

80 MISSISSIPPI SQUADRON, FLAG-SHIP BLACK HAWK,
Mouth Red River, May 2d, 1864.

SIR: I send up by the Ike Hammett a barge loaded with cotton, being a portion of that captured on the Red and Ouachita rivers. I do not know

the number of bales contained in the barge, not having the account in my possession.

Very respectfully, your ob't serv't.

K. R. BREESE,
Lt. Commander, Com'd'g.

Capt. A. M. PENNOCK,
Fleet Capt. and Com't Naval Station, Cairo, Illinois.

Filed May 21st, 1864.

GEO. P. BOWEN, *Clerk.*

Letter of Lt. Com'd'r F. M. Ramsay, concerning cotton captured on Ouachita river.

U. S. S. CHOCTAW,
Off Mouth of Red River, April 21, 1864.

SIR: I send up by the V. F. Wilson, three barges of cotton, captured by the expedition up Ouachita river. Another barge will be sent up by
81 the next tow-boat. There are twenty-eight hundred and nine bales in all. Lt. Com'd'r J. P. Foster, had command of the expedition, and would have written you to-day in regard to the cotton, but he was obliged to leave here very suddenly.

Very respectfully, your ob'd't serv't,

FRANK M. RAMSAY,
Lt. Com'r, Com'd'g 3d District.

Capt. A. M. PENNOCK,
Fleet Captain and Commandant, Cairo, Illinois.

Filed May 21st, 1864.

GEO. P. BOWEN, *Clerk.*

Letter of Capt. A. M. Pennock, correcting report as to 1,412 bales of cotton.

OFFICE OF MISSISSIPPI SQUADRON,
Mound City, Illinois, May 26th, 1864.

SIR: On the 18th instant, I reported to you 788 bales and 52 sacks of cotton; also 1,412 bales and 139 sacks of cotton. Instead of the 1,412 bales and 139 sacks, I should have reported 409 bales and 139 sacks. Will you please rectify any mistake in libelling the cotton which may have
82 occurred in consequence of my error in reporting it.

Very respectfully, your ob'd't serv't,

A. M. PENNOCK,
Fleet Captain and Com'd't Station.

Hon. S. H. TREAT,
U. S. Judge for the Southern District of Illinois, Springfield, Ill's.

Filed May 28th, 1864.

GEO. P. BOWEN, *Clerk.*

Letter of Rear-Admiral D. D. Porter, reporting capture of 1,000 bales of cotton

MISSISSIPPI SQUADRON, FLAG-SHIP BLACK HAWK,
Mound City, May 31, 1864.

SIR: I have to report to you one thousand bales of cotton, captured by Ouachita river ex., and now at this place. The following vessels are entitled to share: Black Hawk, Fort Hindman, Cricket, Eastport, Lafayette,

Neosho, Ozark, Choctaw, Osage, Chillicothe, Louisville, Carondelet,
83 Benton, Pittsburg, Mound City, Essex, Lexington, Ouachita, Gazelle, Kenwood, Juliet, Avenger.

Very respectfully, your ob'd't serv't,
DAVID D. PORTER, *Rear-Admiral.*

Hon. S. H. TREAT,
U. S. Dist. Judge, Springfield, Illinois.

Filed June 3d, 1864.

GEORGE P. BOWEN, *Clerk.*

The depositions and documents read in evidence upon the hearing
84 of said cause, and submitted to and considered by the court before the decision thereof, are in the words and figures following, to wit:

Deposition of Lt. Comdr. James P. Foster, in behalf of the United States, taken before George P. Bowen, clerk of the district court of the United States for the southern district of Illinois, at his office in the city of Springfield, in said district, on the 26th day of November, A. D. 1864.

Int'y 1st. What is your name, age, and occupation?

Ans. James P. Foster; age, thirty-seven years; I am lieut. commander in the United States navy.

Int'y. 2d. Were you engaged in the Red River expedition?

Ans. I was.

Int'y 3d. In what branch of the United States service?

Ans. In the naval service.

85 Int'y 4th. By what branch of the United States service was the Red River expedition conducted? When did it commence, and how far up Red river did said expedition go? What obstructions did it meet from confederate authorities, and in whose military possession was the country before said expedition went up Red river?

Ans. The expedition was conducted by the naval service on the river; by the army on the land, both acting together. Said expedition started up the river in the month of March, 1864; the exact date I dont know. I know very little about the Red River expedition. I think it was about the 20th of March. We met obstructions, such as forts, rafts, and guerillas, and it was in the military possession of the rebel government, or, you might say, in the hands of the enemy.

Int'y 5th. Who commanded the expedition on the river?

Ans. Admiral David D. Porter.

Int'y 6th. State what you know of the seizure of cotton on said expedition.

86 Ans. On Red river I only know of one case; that I was connected with; that was Mrs. Robertson, who lived about two miles back of Pineyville, opposite Alexandria. I only knew of about 130 bales taken from her. Mrs. Robertson was a widow. Some of her cotton was raised two years previous, and some of it was five or six years of age.

Int'y 7th. Were you engaged in the Ouachita expedition? If so, when did said expedition commence, by whom was it conducted, how far up the river did it go, what obstruction or resistence did it meet from the so-called confederate forces or government, and in whose military possession was the country penetrated by said expedition?

Ans. I was engaged in that expedition; it commenced on the 6th of April, 1864. I was the commander of the expedition, and we went with a part of my boats as far as Ouachita city. I think some 200 miles up the river; I am not certain. We met with very little obstruction on the river until

we reached Monroe. There my pickets were attacked by the enemy's
87 cavalry. The country where we went was in the military possession of the enemy.

Int'y 8. What do you know, if anything, of the seizure of a lot of cotton claimed by a man by the name of Le More?

Ans. All the cotton claimed by Le More & Co. was marked "C. S. A.," with very few exceptions. Whilst I was taking on board cotton claimed by this firm, Mr. Le More came to me and represented himself as the agent of the house of Le More & Co. He stated in presence of witnesses that they had received this cotton in exchange for gray-back clothing, which they forwarded to Kirby Smith's army. He not only made this statement in the presence of three or four officers; he also gave me an affidavit signed by himself, which affidavit was sent to Admiral Porter. This cotton, marked "C. S. A.," was seized about one and a half mile below Monroe, on the opposite side of the river, and not, as I know, on any particular plantation.

Mr. Le More stated that when they were burning cotton through that
88 section their cotton was protected by Kirby Smith's army. This he stated in answer to my question, why the cotton was not burned with the rest. There was 300 and odd bales; it is 309 bales bales, I think. I speak of all the cotton claimed by that firm, wherever taken. It was taken from different points; and at the Simmon's plantation, there was 810 bales, I think, captured there.

Int'y 9th. Please examine the paper now handed you, marked Exhibit A., and state what you know about it.

Ans. I took that affidavit and read it to Le More, who said it was correct. He also said that the cotton he paid for in gold was his own cotton, comprising a lot of some 200 bales in another lot. Before this talk with Le More, I had seized all the cotton. As we went up the river I seized it as we went, put men in charge of it, and directed men to put it on the boats. A good deal of it I had guards over, although it was not on the boats. Le More saw us taking it on board. When he came down and saw us taking this cotton, was when we had this talk, and I took this affidavit
89 shown me, and his affidavit I have spoken of. I think over two-thirds of the cotton claimed by Le More was marked C. S. A. The conversation which I had with Le More referred to all the cotton claimed by Le More & Co., in all that section of country. This cotton taken from Simmon's plantation, and the 309 bales, was all taken below Monroe.

Cross-interrogatory by Judge Logan:

Ques. What was the nature of the obstructions you met with below Monroe?

Ans. We met with no military obstructions; they had all been cleared away by an expedition commanded by Captain Ramsay, some five weeks before.

Filed Nov. 28, 1864.

GEO. P. BOWEN, *Clerk.*

Exhibit A, referred to in the deposition of Jas. P. Foster.

U. S. S. LAFAYETTE, *April 11th*, 1864.

We, the undersigned officers, heard Mr. Jules Le More acknowledge
90 that the cotton taken on board by the U. S. S. Ouachita belonged to G. A. Le More & Co., of which firm he acknowledges himself the agent. Said cotton was purchased from the confederate government, for which the firm exchanged provisions and clothing. We also heard the same

gentleman, Jules Le More, say that this cotton was paid for in gold at twenty cents (20) per lb. The number of bales taken was three hundred and nine (309.)

BYRON WILSON, *Lt. Com'd'r.*
J. S. WATSON, *Act'g Master.*
WM. HARRIS, *Act'g Ensign.*

Subscribed and sworn to before me, this 11th day of April, 1864.
JAS. P. FOSTER,
Lieut. Com'd'r U. S. N., Comd'g 2d Dist., Miss. River.

Deposition of Lt. Com'd'r Francis M. Ramsay, in behalf of the United States, taken before George P. Bowen, clerk of the district court of the United States for the southern district of Illinois, at his office in the city of Springfield, in said district, on the 3d day of October, A. D. 1864.

91 My name is Francis M. Ramsay; I am a lieutenant commander in the navy of the United States; was in command of the United States steamer Choctaw, of the Misissippi squaron, while she was attached to the Red, Black, and Ouachita River expedition. When we entered on the Ouachita expedition, the whole country from the mouth of the Black river to Ouachita city, as far as I went, was in possession of the rebels. On arriving at Monroe, by order of Lieutenant Commander J. P. Foster, commanding Ouachita River expedition, I landed with 150 armed men and took possession of the city. I was introduced to a Mr. Ray, whose first name, according to my best recollection and belief, was John, as the mayor of the town of Monroe, and was informed he could give me any information I desired. I questioned him, but was unable to get a single answer of information. On our way up to Monroe, at a plantation owned by or called Simmons's plantation, we seized, to the best of my recollection, about 700 bales of cotton, each bale of which I examined, and found "C. S. A." plain-
92 ly marked on each. One of the vessels of this expedition was fired upon going up to Monroe, between Monroe and Harrisonburg, and another on returning. Between Monroe and Ouachita city, I seized about 700 bales of cotton. It was in two lots, one lot being on Swan's plantation, to the best of my recollection, the other, I think, on Bartlett's plantation, all of which was plainly marked, when found, "C. S. A." on each bale. On our way down the river, on a plantation of Ray Bro's, known as Ray's plantation, I seized a qantity of cotton; I don't remember the number of bales, but each bale was maked "C. S. A.," and about 350 bales of cotton in slabs, without any mark whatever upon it. This last, slab cotton, Mr. Ray, who was on the place, whose name, I think, was James L., but am not possitive, informed me was the joint property of himself and his brother, John Ray. I seized this latter cotton by order of Lieutenant Commander J. P. Foster, commanding that expedition. It was between the 5th and 20th days of April, A. D. 1864, these several seizures were made.

93 At Trinity, at the junction of the Black river, the Tensas, Ouachita, and Little river, the rebels had two forts. At Harrisonsburg, on the Ouachita river, they have and had five forts. At Monroe they had one, and I think two forts. About the first of March, 1864, the three guns in the forts at Trinity were captured by me while in command of an expedition up the Ouachita river; and the day following we had a severe fight with the forces under General Polignac, at Harrisonsburg. While the vessels were at Monroe, a skirmish took place between the crew of the United States steamer Ouachita and the rebels, a few miles above a little town, the name of which I don't now remember; it was the first town above Monroe, on the opposite

bank, I think called Trenton; this place, Monroe, had been the rebels' headquarters, and of the rebel General Lidell.

Cross-interrogatories by Messrs. Hay, Edwards, and Springer:

The cotton spoken of was all sent to Cairo, so far as I know. They
94 were ordered to be sent to Cairo.

Ques. Did the person of whom you speak on the Ray plantation as James L. Ray, claim the ownership of any other cotton found upon that plantation but the cotton in slabs? and state what he may have said about the ownership of the cotton not in slabs, found on his plantation and marked "C. S. A."

Ans. He claimed only the cotton in slabs, but said he had not mentioned this other to Captain Foster, as he had hoped to make use of it for his own benefit, or words to that effect.

Re-examined by L. Weldon, esq.:

Ans. I went up Red river as far as Alexandria. The whole country from the mouth of that river to Alexandria was in posession of the rebels at the time we entered the river. About 12 miles below Fort De Russey, the river was obstructed, as we found, by two rows of piles driven across, and logs drifted down against the piles. Fort De Russey, with its guns and
95 part of its garrison, was in posession of our troops when I got there.

I also found Alexandria in posession of the naval and military forces of the United States when I reached there. This was about the middle of March, 1864. The only cotton I seized on this expedition up Red river was 17 bales in Pineyville, each bale marked "C. S. A."; also 17 bales about two miles from Pineyville, belonging to a Mr. Gray; also 30 bales belonging to Dr. Maddox, about three miles from Alexandria; also 81 bales belonging to a Mrs. H. Robertson, about two miles from the river, back of Pineyville. I understand the H. in the name of Mrs. H. Robertson, applied to her husband, and not to her name. The whole of the cotton captured on this expedition was ordered to be, and was, sent to Cairo, according to my best knowledge and belief.

Filed Oct. 3d, A. D. 1864.

GEO. P. BOWEN, *Clerk.*

Deposition of Ross W. Doyle, in behalf of John H. McKee, taken before George P. Bowen, United States commissioner, at his office in the
96 city of Springfield, Illinois, on the 12th day of June, A. D. 1865.

Ques. 1st. Please state if you are acquainted with John H. McKee, how long you have known him, and when you knew him.

Answer 1st. I have known John H. McKee intimately since January, 1864, in New Orleans; he is a merchant in that city.

Int. 2d. Please state what you know of his sentiments and acts towards the United States government, in the last four (4) years.

Answer 2d. I believe that he is and always has been a truly loyal man, and never has been within the rebel lines.

Int. 3d. If you have any knowledge of said McKee's ownership of 137 bales of cotton, and certain leather, bagging, and rope, stored at Alexandria La., in the spring of 1864, please state where it was stored, how you knew it belonged to said McKee, how long he owned it, and what became of it; state all the particulars fully.

97 Answer 3d. I have often heard that he owned a lot of cotton, bagging, and rope, and leather, which was stored in A. Rachal's warehouse, Alexandria, but I never seen any of the papers proving his ownership; I do not know what became of it.

Int. 4th. If you saw the property at Cairo, state its condition, the time when you saw it, and the disposition that was finally made of it.

Answer 4th. I did not see it, and know nothing of what became of it.

Int. 5th. If the authorities of the United States afforded or provided any protection for said McKee's property, and you have any knowledge of it, please state what that knowledge is.

Answer 5th. I know that he had permits from the U. S. Treasury Department, at New Orleans, in the name of C. A. Weed & Co., of which firm he is and was at that time a member, to bring out cotton, &c., belonging to them in Red and Ouachita rivers.

Int. 6th. Please state with more particularity the conversation
98 which you had with Admiral Porter with reference to this property of Mr. McKee.

Answer 6. I had no conversation with Admiral Porter in reference to this property.

Int. 7th. Please state, if you can, whether any of the cotton taken by the U. S. gunboats in Red river was sent to any other place than Cairo.

Answer 7th. I do not know of any of the cotton taken by the gun boats on Red river being sent to any other point than Cairo.

ROSS W. DOYLE.

Filed June 16th, 1865.

GEORGE P. BOWEN, *Clerk.*

Deposition of W. W. Withenbury, in behalf of J. H. McKee, taken before George P. Bowen, United States commissioner, at his office in the city of Springfield, Illinois, on the 16th day of June, A. D. 1865.

99 Ques. 1st. Please state if you are acquainted with John H. McKee how long you have known him, and where you knew him.

Ans. I have known John H. McKee as a merchant of the city of New Orleans since 1863, and more intimately since March, 1864.

Ques. 2d. Please state what you know of his sentiments and acts towards the United States government in the last four (4) years?

Ans. He has always been loyal to the United States so far as I have known. He has always expressed loyal sentiments to me.

Ques. 3d. If you have any knowledge of said McKee's ownership of 137 bales of cotton, and certain leather and bagging and rope stored at Alexandria, Louisiana, in the spring of 1864, please state where it was stored, how you know it belonged to said McKee, how long he owned it, and what became of it; state all the particulars fully.

Ans. He was the owner of 137 bales of cotton, and a lot of bagging, and rope and leather, which was stored in Adolph Rachal's ware-
100 house in Alexandria, La. I had the written evidences of his ownership in my hands in March, 1864; I cannot tell how long he had owned it, but I think some months. It was taken from Rachal's warehouse in March, 1864, by the U. S. gunboats. The bagging and rope and leather were taken on board the flag-ship Black Hawk, and remained on her more than a week; a part of the bagging and rope was used in baling up cotton on the plantation of Mrs. Crosby, 4 miles from Alexandria, where Admiral Porter's men found some seed cotton, which they ginned and baled and brought to town, where they marked it "C. S. A.," and shipped it to Cairo. The cotton in Rachal's warehouse belonging to J. H. McKee was not marked at all before it was seized; it was all, nearly, baled cotton and in firstrate order.

Ques. 4th. If you saw that property at Cairo, state its condition, the time when you saw it, and the disposition that was finally made of it.

Ans. I never saw the above property or any of it after it left Alexandria

I told Admiral Porter at the time it was taken that it belonged to
101 J. H. McKee, who was absent, and that he was a loyal man; and he then told me he was only taking property for its protection from the rebels, and that all loyal owners would get their property at Cairo, as he had instructed Capt. Bennock and the U. S. marshal to surrender all property sent to Cairo by the navy, when applied for by loyal persons and lawful owners.

Ques. 5th. If the authorities of the United States afforded or provided any protection for said McKee's property, and you have any knowledge of it, please state what that knowledge is?

Ans. I know of no other protection than what I have stated I have understood, however, that the house of C. A. Weed & Co., of New Orleans, of which firm McKee was a member, had permits from the U. S. Treasury Department to bring property in to the Union lines, and I know they did take large amounts of property from Alexandria to New Orleans, while Alexandria was occupied by the U. S. forces; and all other parties who had no permits were prohibited from trading in property at all or exporting it.

102 Ques. 6th. Please state with more particularity the conversation you had with Admiral Porter, with reference to this property of Mr. McKee.

Ans. When I stated to him that the property belonged to John H. McKee, who was then on his way from New Orleans to Alexandria, and showed him the evidence of McKee's ownership, he remarked to me that had he known that he would not have taken it. This property was taken on the 16th day of March. The fleet arrived at Alexandria on the 15th March, and I was in town on the 16th, when I reported to Admiral Porter on board his flag-ship, where I had the above conversation with Admiral Porter concerning this property, which was then already on board the gunboats.

Ques. 7th. Please state, if you can, whether any of the cotton taken by the U. S. gunboats on Red river, was sent to any other place than Cairo.

Ans. Admiral Porter told me repeatedly that all the property taken by his fleet on Red river, or elsewhere, was and would be sent to Cairo for disposition, and that none was sent to any other point, and that Mr. McKee could get his at Cairo.

103 Ques. 8th. Please state whether there was any other warehouse than those under control of A. Rachal, at Alexandria, which contained cotton taken by the naval forces. What warehouse is it alluded to by Admiral Porter in one of his communications to the Secretary of the Navy? Was it a different or was it the same warehouse used A. Rachal? Were both of A. Rachal's warehouses occupied with cotton?

Ans. There was no other public warehouse in which cotton was stored at that time in Alexandria, except those belonging to A. Rachal. The ware house alluded to by Admiral Porter in his letter to the Secretary of the Navy as being filled with "rebel cotton" was the warehouse of A. Rachal; I know this, for at the time of the arrival of the naval fleet at Alexandria, this particular warehouse was emptied of its property stored there, by the navy, and no other warehouse was so emptied; there were private stores and buildings filled with private cotton, but none of them were disturbed for several days thereafter.

Ques. 9th. Look at paper A, purporting to contain the bill of sale
104 from A. W. McKee to J. H. McKee of the property herein claimed, and an order on Adolphe Rachal for the same property, and state what you can say about it.

Ans. The paper marked A, and now shown me, I recognize as in the handwriting of A. W. McKee, and I believe it to be correct in every respect. On or about the 10th of March, 1864, A. W. McKee returned from the parish of Point Coupé to Alexandria, and he showed me between nine and ten thou-

Adolph Rachal, of sound mind and lawful age, witness on behalf of the said J. H. McKee, in a certain cause pending in the dist. court of the United States for the southern dist. of Ills., wherein the United States are libellant and J. H. McKee is claimant.

And the said Adolph Rachal, by me first carefully examined, and sworn to testify the truth, the whole truth, and nothing but the truth, deposes and says: That he is a warehouse keeper in the town of Alexandria, parish and State aforesaid, where he has followed that business for many years; that in the winter of 1864 he held on storage in his warehouse the private property of Andrew W. McKee, consisting of 147 bales of cotton, a large lot of bagging and rope, and some twenty or thirty sides of sole leather.

That the said property was stored with him by said A. W. McKee as
132 his private property, and not as the property of the so-called Confederate States, and that none of the said property ever bore the mark or brand of the said Confederate States.

Deponent further says that, early in the month of March, 1864, the said A. W. McKee notified him (deponent) that he, said McKee, had sold the property above mentioned to one J. H. McKee, a citizen of New Orleans, and had given the said J. H. McKee an order on him, deponent, for the delivery of the said property.

Deponent says that, on the 16th day of March, 1864, the said property, consisting of 147 bales of cotton, 67 coils grass rope, 67 coils and half coils Ky. bale rope, 22 bales of India bag'g, 360 yds. each; 69 rolls Ind. bag'g, 30 yds. each; 7 rolls Ky. bag'g, 135 yds. each; 1 lot sole leather, was seized and taken from my possession by order of Adm'l David D. Porter, of U. S. N., and placed on board the boats or barges comprising the fleet under command of said Adm'l Porter, then lying in Red river in front of
133 the town of Alexandria, La.

Deponent protested against the said seizue by the said naval forces, and notified Adm'l Porter that the property in the foregoing schedule, which he, said Porter, was then seizing, was the property of a citizen of the United States then residing in the city of New Orleans, to wit, said J. H. McKee. But in spite of the protestation of deponent, the said property was forcibly taken from his possession and carried away.

AD. RACHAL.

Sworn to and subscribed before me, on this the 16th day of August, A. D. 1865.

R. M. KILPATRICK, *Not. Pub.*

UNITED STATES OF AMERICA, *State of Louisiana, parish of Rapides, ss:*

I, Robt. M. Kilpatrick, a notary public within and for the State and parish aforesaid, appointed, qualified, and commissioned as stated in the caption hereof, do hereby certify that the reason for taking the foregoing
134 deposition is, and the fact is, that the said witness resides more than one hundred miles from Springfield, Ills., the place of trial of the cause for and in which the said deposition was taken, and that the same is necessary.

I futher certify that no notification was made out and served on the adverse party, or their attorney or agent, by me of the time and place of taking said deposition, and to be present and put interrogatories if he or they should think fit, because neither the said party, their attorney or agent, were, at the time of the taking of said deposition, within one hundred miles of Alexandria, Louis'a, the place where the said deposition was taken.

I further certify that on the 16th day of August, A. D. 1865, at Alexandria, in the said parish and State, I was attended by the witness, he being of

sound mind and lawful age, and the said witness was, previous to the commencement of his deposition, carefully examined and cautioned, and solemnly sworn to testify the truth, the whole truth, and nothing but the truth, and the deposition herebefore appearing was by me reduced to writing
135 in the presence of the said witness, and was read over by me to the said witness, and thereafter subscribed by the said witness in my presence.

I further certify that I am not of counsel or attorney or a relative to either party concerned in the cause, or in any manner interested in the event of the said cause. All of which is here certified as the reason for taking said deposition, and the manner in which it is taken.

In testimony whereof, I have hereunto set my hand and official scroll, there being no seal of office.

[SEAL.] ROBT. KILPATRICK, *Not. Pub.*

Opened Sept. 26th, 1865, at request of R. M. Corwine, proctor for claimant.
GEO. P. BOWEN, *Clerk.*

(The district attorney and the counsel for captors object to the admission of the foregoing deposition of Adolph Rachal as evidence in said cause; no notice of the time and place of taking the same having been served upon them.)

[Copy.]

136 TREASURY DEPARTMENT, *October* 26, 1864.

John L. Reese, jr., and Charles A. Weed allege that, under authorities granted by B. F. Flanders, esq., supervising special agent, and George S. Denison, special agent of this department, at New Orleans, prior to July 2, 1864, they purchased in the Teché and Vermillion country, La., within the lines of national military occupation by the U. S. forces, about 5,000 bales of cotton, 2,000 hhds. of sugar, and 3,000 bbls. of molases, and had paid in lawful currency of the U. S. about one half of the value of said products; that they had provided a large sum of money with which to make further payments, which was on deposit in the banks in New Orleans, and which still remains on deposit there for that purpose, and that they had made arrangements and become liable to pay for said products in full. That
137 they had been able to bring to market only from 200 to 300 bales of cotton, about 800 or 900 hhds. of sugar, and 300 bbls. of molasses, when the Union forces, in the spring of 1864, returned from the said Teche and Vermillion country, leaving the remainder of said products beyond the Union lines, where they now are, and whence they are unable to remove them, by reason of their being beyond said Union lines, and the parties ask authority to complete the transportation commenced and conducted thus far under the prescribed rules and regulations of the Treasury Department.

After full examination, and in view of the fact that the loyalty of the applicants is not questioned, and that there are no adverse claimants to said products known to the department, authority is hereby given to the said John S. Reese, jr., and Charles A. Weed, to transport, by way of New Orleans, (where all government fees and dues shall be paid before shipment therefrom,) the products in question: provided, that they shall first
138 present to the acting collector of customs at New Orleans the original authorities or permits under which they acted, or copies thereof, certified by the officer with whom they are filed, with proof to his satisfaction that the products were actually purchased in good faith, under and by virtue of said authorities, and payment made and liabilities incurred as alleged; and provided further, that the said John L. Reeve, jr., and Charles A. Weed

shall first execute, to the satisfaction of the said acting collector at New Orleans, a bond, with sufficient security, in the penal sum of $250,000, conditioned that all fees and taxes in any way due or accruing to the government of the United States from said products, shall be paid on their arrival at New Orleans; and any products transported or attempted to be transported under this authority without the original permits or authorities, or certified copies thereof, and proof herein required, shall be seized and proceeded against for forfeiture and condemnation to the United States.

139 The acting collector at New Orleans shall record and file in his office a copy of this authority, and deliver this original to the said John L. Reese, jr., and Charles A. Weed, after indorsing upon it his certificate, attested by his official seal, that the required bond has been duly executed and delivered.

The conditions herein stipulated having been complied with, the products moving hereunder, or under permits given in pursuance hereof, will be allowed to be transported to the desired markets without hindrance or delay.

The leave hereby granted is confined to so much of said products as had been actually paid for, or said parties had become legally liable to pay for, under and by virtue of permits properly issued by authority of this department, prior to said second day of July, 1864; and the power to revoke the authority hereby granted at any time, should satisfactory cause appear, is reserved to this department.

(Signed) W. P. FESSENDEN,
Secretary of the Treasury.

140 EXECUTIVE MANSION, *Oct.* 26, 1864.

The Secretary of the Treasury having, by the terms of, and upon the conditions contained in, the foregoing papers, by him signed, directed that John L. Reese, jr., and Charles A. Weed be allowed to transport from certain localities in the State of Louisiana to markets in the loyal States or elsewhere, 5,000 bales of cotton, 2,000 hhds. of sugar, and 3,000 bbls. of molasses owned by them in said State, and that permits be given them for that purpose by the acting collector of customs at New Orleans—

It is ordered that all cotton, sugar, and molasses moving in compliance with such directions of the Secretary of the Treasury, or permits granted in pursuance thereof, shall be free from seizure or detention by any officer of the government; and commandants of military departments, districts, posts, and detachments, naval stations, gunboats, flotillas, and fleets will observe this order, and give the said John L. Reese jr., and Charles A. Weed, their agents and transports, proper facilities, and passes for the purpose

141 of getting said cotton, sugar, and molasses through the lines, and safe conduct within our lines, while the same is moving in strict compliance with the directions of the Secretary of the Treasury, and permits before referred to.

(Signed) ABRAHAM LINCOLN.

CUSTOM HOUSE, NEW ORLEANS,
Collector's Office, Dec. 26th, 1864.

I certify that Charles A. Weed and John L. Reese, jr., have delivered to me a bond, duly executed, with proper and sufficient sureties in the sum of $250,000, as required by the foregoing authority from the Secretary of the Treasury.

I further certify that they have complied with the conditions, provisions and requirements of said foregoing authority, to my full and entire satisfaction.

[SEAL.] GEORGE S. DENISON.
Special Agent Treasury Dep't and Act'g Collector of Customs.

Indorsed on back as follows: Copy of authority from Sec'y of Treas-
142 to bring cotton, sugar, and molasses to N. O. John L. Reeves, jr., and C. A. Weed.

Filed October 11th, 1865.

GEO. P. BOWEN, *Clerk.*

(The district attorney and the counsel for the captors object to the admission of the foregoing papers as evidence in said cause, on the ground that they are not original papers, and are not properly authenticated as copies of original papers.)

143 UNITED STATES OF AMERICA, *Southern district of Illinois, ss:*

I, George P. Bowen, clerk of the district court of the United States for said southern district of Illinois, do hereby certify the foregoing transcript to be a true copy of the record and proceedings had in said court, in a certain cause in prize, wherein the United States were libellants and 650 bales of cotton, 100 coils of rope; 16 bales, 8 rolls, and1 60 pieces of bagging; 29 pieces of leather; 788 bales, 52 sacks of cotton; 409 bales, 139 sacks of cotton, and 1,000 bales of cotton was defendant, so far as the same relates to 137 bales of cotton, 100 coils of rope, 16 bales, 8 rolls, and 160 pieces of bagging, and 29 pieces of leather, claimed by John H. McKee, as the same are now on file and of record in my office.

In testimony whereof, I have hereunto set my hand and affixed the seal of said court, at Springfield, in said district, this thirteenth day of March, in the year of our Lord one thousand eight hundred and sixty-six, and of the independence of the United States the ninetieth.

[SEAL.] GEO. P. BOWEN, *Clerk.*

[5 ct. rev. stamp, cancelled.]

sand dollars in "greenbacks" which he said was a payment on the cotton and other property in Rachal's warehouse, and that he had sold the property to John H. McKee, who had paid him in part in this money.

Cross-examined:

Ques. 1st. Describe as fully as you can the evidences of ownership referred to in your answer to 3d interrogatory.

Ans. The evidences of ownership which I had was an order from A. W. McKee on the warehouse keeper, A. Rachal, to deliver to J. H. McKee or his order the goods in question in this suit. I showed this order to Rachal,
105 but the property was already gone, and I then showed it to Admiral Porter. Rachal told me that he had, by the order of A. W. McKee, already transferred it to J. H. McKee on his books. There was, as Rachal told me, 9 bales of his own cotton in his warehouse, which Admiral Porter took at the same time, against his protest.

Ques. 2d. What do you know of your own knowledge of the permits referred to in your answer to 5th interrogatory, in respect of their dates, signatures, purport, and the authority under which they were granted? State as fully as you can.

Ans. I only know that Mr. McKee kept his papers on deposit with the U. S. quartermaster at Alexandria, and I frequently saw them while McKee was examining them and exhibiting them to said quartermaster; and the privilege of trading in property and shipping the same to New Orleans on U. S. transports was fully accorded to him. I never examined minutely the permits referred to, for I had no occasion to, and I have been told that such
106 permits, after having been used for the specific purpose for which they were granted, are usually cancelled and returned or given up to the department from which they were issued, but of this I know nothing. I cannot describe the signatures, or tell the dates, or say from what department they were issued; but my impression at the time was that they were from the Treasury Department, from the fact that there were several treasury agents there, and I frequently saw McKee and them examining these papers while in conversation upon matters pertaining to the purchase and shipment of cotton or other property. I had no right to look particularly into these papers; hence I know nothing more about them.

W. W. WITHENBURY.

Paper marked A, referred to in my deposition in the case of J. H. McKee, claimant of 137 bales of cotton, and a lot of leather, bagging, and rope.

W. W. WITHENBURY.

107 POINT COUPEE PARISH, NEAR WATERLOO,
March 4, 1864.

John H. McKee, of the firm of C. A. Weed & Co., New Orleans, bo't of A. W. McKee:

One hundred and thirty-seven bales of cotton, at $75 p'r bale.	$10,275 00
One lot of leather	200 00
Bale rope and bagging sufficient to cover 2,000 bales of cotton, at $4	8,000 00
Payable in U. S. currency.	
	$18,475,00

(It is understood and agreed that the above property is now stored in the warehouse of Adolph Rachal, in Alexandria, La., and that J. H. McKee accepts all risks of destruction by the rebel authority or accidents.)

Received payment in full.

ANDREW W. McKEE.

Mr. Adolph Rachal, Alexandria, will please deliver the above-mentioned property to the order of John H. McKee, and oblige

ANDREW W. McKEE.

108 Filed June 16, 1865.

GEO. P. BOWEN, *Clerk.*

Desposition of Andrew W. McKee, in behalf of J. H. McKee, taken before George P. Bowen, United States commissioner, at his office in the city of Springfield, Illinois, on the 12th day of June, A. D. 1865.

Interrogatory 1st. Are you acquainted with John H. McKee, of New Orleans? and how long have you known him?

Ans. 1st. I have known John H. McKee from boyhood; we were born in same city, Wheeling, Va. He is not a blood relation of mine, but he is an adopted son of an uncle of mine.

Interrogatory 2d. Do you know anything of his ownership of certain leather, bagging, and rope, and one hundred and thirty-seven bales of cotton, in March, 1864, situate in a warehouse under charge of Adolphe Rachal, in Alexandria, Louisiana? If you do, please state all you know about it. Was said cotton and other property ever the property of the so-called
109 confederacy?

Ans. 2d. In the first part of March, 1864, I met John H. McKee in Point Coupee parish, Louisiana, (then treated very much as neutral ground by the U. S. and rebel authorities;) he spoke to me about the chances of his investing some U. S. greenback currency about Alexandria, La., as he intended to go up there when the U. S. forces under Gen'l Banks advanced. I informed him that I had stored in the town of Alexandria, where the rebel authorities could not upon a retreat burn it without endangering the safety of the town, about 140 bales of cotton, a good lot of bagging and rope, and some leather, which, as I had no means but Confederate States currency, I would sell him; said cotton, bale rope, and bagging, and leather, was then, and had been for a long time, stored and hid away in the warehouse of Mr. Adolphe Rachal, on Water street, in the town of Alexandria.

John H. McKee consented to purchase the same, and I did then and there sell to him, and gave him an order for the same, say (137) one hun-
110 dred and thirty-seven bales of middling cotton, at the rate of $75 per bale, sufficient bagging and rope to tie up and cover (2,000) two thousand bales of cotton, at the rate of ($4) four dollars per bale, and ($200) two hundred dollars for a small lot of leather, making a total of the amount of money (U. S. currency) I received from him ($18,475) eighteen thousand four hundred and seventy-five dollars, he, J. H. McKee, to take all risks of the rebel authorities, other than myself, destroying the same. None of the above-mentioned property so sold to John H. McKee was ever the property of the so-called Confederate States; it was my own private property.

Interrogatory 3d. Have you any knowledge of said John H. McKee having authority or permission from the United States authorities to trade with persons in the rebel lines, and remove property from those lines into the federal lines?

Ans. 3d. After my sale to J. H. McKee, referred to in answer second, he exhibited to me a protection paper and permit from the U. S.
111 Treasury Dep't, authorizing him, or his firm, Messrs. C. A. Weed &Co., of New Orleans, to trade for or purchase products or property of any kind, in the insurrectionary States, and within the rebel lines, and to bring the same into the federal lines to New Orleans. Immediately upon my return to Alexandria, all of said 137 bales cotton, bagging, and rope, and leather, was transferred by my order upon the books of Adolphe Rachal to John H. McKee, and held for his risk and account.

Interrogatory 4th. What were John H. McKee's sentiments towards the United States government in reference to the rebellion?

Ans. 4th. To my knowledge John H. McKee has always been a strong and violent Union man, loyal to the United States; began business and residence in New Orleans after the occupation of that city by the federal authorities; never has been within the rebel lines; he has repeatedly reproached me for being caught in the so-called southern confederacy, and for two years
112 past has been doing all he could to withdraw me from same.

Interrogatory 5th. What relationship, if any, is there between you and John H. McKee.

Ans. 5th. I have already stated my relationship to John H. McKee. I have no interest whatever in the result of this suit or claim made by John H. McKee.

Cross-examination by C. Eames for the U. S.:

Cross-interrogatory 1st. State all you know of your own knowledge of the character, date, signature, purport, and authority of the protection and permit referred to in your third answer.

Answer to 1st cross-interrogatory. I looked over the document but once. It was made out upon partially-printed forms headed, I believe, "United States Treasury Department." I think it was dated in the fall of 1863. It set forth that upon the application of C. A. Weed or C. A. Weed & Co., who agreed to comply with certain treasury regulations therein men-
113 tioned, but which I cannot remember, they should be allowed to purchase cotton, sugar, or other property within the lines of the so-called confederate army, and have protection for the same, and also bring the same within the federal lines at New Orleans. It was signed by an agent of the United States Treasury Department whose name I cannot recollect. It was written across the face with red ink, and countersigned by some officer whose name or rank I do not recollect.

ANDREW W. McKEE.

Filed June 16th, 1865.

GEO. P. BOWEN, *Clerk.*

The depositions of Leon Chabert, John H. McKee, Ross W. Doyle, R. M. McMahon, and Andrew W. McKee, in behalf of John H. McKee, taken before Charles Claiborne, United States commissioner for the eastern district of Louisiana, at his office in the city of New Orleans, Louisiana, on the 15th, 16th, 17th, and 22d days of August, A. D. 1865.

114 Leon Chabert, who, being duly sworn, deposes and says, on behalf of claimant:

I am now 63 years of age, and have been for the last 50 years a resident of the city of New Orleans. In the month of February, 1864, I proceeded from the city of New Orleans to Alexandria, Rapides parish, La., said Alexdria being then comprised within the lines of the army of the so-called Confederate States.

Witness shown document A, now filed with this deposition, and hereto appended, says: That it is the identical pass under which I proceeded to said Alexandria. I was employed by Mr. John H. McKee to go up there for the house of Weed & Co.; the object was to prevent the burning of cotton. General Banks was also connected in the matter. I brought a letter to Andrew W. McKee, at Alexandria, from J. H. McKee, and one also from General Banks, both for the same purpose, and that was to prevent the burning of cotton. Andrew W. McKee was then and there employed by
115 the confederate government to take charge of their cotton. Andrew W. McKee agreed to prevent the burning of cotton. I know that

John H. McKee had cotton there, that is, in the confederate lines. I know positively that John H. McKee had permits to bring this cotton to New Orleans. I went to Alexandria for the purpose of exhibiting to A. W. McKee a written agreement between General Banks and Jno. H. McKee, to the effect that if A. W. McKee would not burn the cotton, John H. McKee would have permission to bring his cotton to New Orleans.

The original of that agreement I exhibited to A. W. McKee.

I first entered the confederate lines at Morganza. I ran great risk in returning from Alexandria to Morganza. I was in the enemy's country, and had it been discovered that I had such papers in my possession my life would have been endangered.

Cross-examined:

116 I had the permit to bring this cotton to N. O. in my possession; it was signed by Gen'l Banks and J. H. McKee; this permit is the same document I have spoken of as having been exhibited and delivered by me to A. W. McKee. As far as I recollect, those were the only signatures appended to it. I do not recollect the date of this document. This agreement or permit was dated at General Banks's headquarters. It was not signed by any one of the treasury agents. I do not know anything of John H. McKee's cotton except what he told me.

I am not at all interested in this suit.

L. CHABERT.

Deposition of John H. McKee.

John H. McKee, the claimant, being sworn, deposes and says, (objected to as being interested by C. R. Kellogg on part of U. S:) I reside in New Orleans; I am a partner and member of the firm of C. A. Weed & Co., and have always been a loyal Union man, and have never had any connexion with the so-called confederacy.

117 In the latter part of 1863, and in the early part of 1864, I was engaged in making certain negotiations, on behalf of the military authorities of the government of the department of the gulf. In carrying out this I sent agents through the lines and passed through myself on passports of Major General Banks, which are hereto annexed and marked B, C, and D, in addition to these passes I was authorized to take a few goods, not contraband of war, within the confederate lines from New Orleans, and had permission to purchase and bring in cotton and other products of western Louisiana. The permits to make the said purchases I obtained in the early part of 1864, from Major General Banks, and made use of it to convey a small lot of goods to Waterloo in Point Coupee parish, in west Louisiana, on or about the 6th of March, 1864. Whilst at Waterloo on this occasion I met A. W. McKee and bought from him one hundred and thirty-seven bales of cotton and bagging and sufficient to cover two thousand bales of cotton, and also a small lot of leather, all of which was stored in the warehouse of Adolphe Rachal, in the town of Alexandria, parish of Rapides,

118 west Louisiana. Very soon thereafter General Banks make an expedition up Red river and through the country, the land forces of which I accompanied. On reaching Alexandria, about the 25th of March, 1864, I learned from Rachal and from W. W. Withenbury that the property mentioned above had been forcibly taken from his warehouse by order of Rear-Admiral Porter and placed on one of his vessels to be sent to Cairo. The permits I kept until some time in July or August, 1864, when General Canby, who had assumed the command of the division of west Mississippi, annulled all such trade permits. The said permit being then of no use to me, was lost or mislaid. I have not been able to find it since that time.

Cross-examined:

The negotiation mentioned by me in the examination in chief was between the confederate treasury and military authorities, who controlled
119 the cotton in western Louisiana, and the military authorities of the department of the gulf, commanded by General Banks. My permit was signed by General Banks or by Brigadier General Bowen, provost marshal general of the department of the gulf; the permit was signed by the military, as I stated above. The permit authorized me to purchase cotton outside the U. S. military lines. The cotton claimed by me was purchased about the 6th of March 1864, at Waterloo, from A. W. McKee. Mr. McKee was the general agent to purchase cotton on behalf of the so-called Confederate States in western Louisiana. I was not present when the cotton was seized. I have forgotten the marks of this cotton. Payment was made at the time I made the purchase. The cotton was in Alexandria, within the confederate lines, at the time I made the purchase.

Re-direct:

A. W. McKee sold me this cotton as his own private property. The above named permit was given me in order to serve as a cover for the real transactions I had on hand for the United States military authorities.

120 Re-cross ex.:

In these confederate negotiations Mr. A. W. McKee and others represented the confederate government, about the burning of the cotton—this cotton as well as all others, both public and private.

J. H. McKEE.

Deposition of Ross W. Doyle.

Ross W. Doyle, being duly sworn, deposes and says: I am thirty-four years of age, and reside at present at New Orleans; I was employed by J. H. McKee, in February, 1864, to send or get a letter to A. W. McKee at Alexandria, La. The object of that letter was to arrange for a place of meeting between J. H. McKee and A. W. McKee. That interview took place on board the steamer Black Hawk, at Waterloo, in the parish of Point Coupee, La. I was present at the interview. Waterloo at that time was within confederate lines. The object of that interview was to make arrangements to
121 prevent the burning of both public and private cotton. Witness being shown document 13, filed with testimony of J. H. McKee, says he recognizes it as the pass under which he went up to Waterloo with J. H McKee, and met A. W. McKee on the steamer Black Hawk. This meeting took place about the 5th or 6th of March, 1864.

A. W. McKee agreed not to burn the cotton. I assisted Mr. J. H. McKee in purchasing some goods and supplies, which were not contraband of war, and which were taken up on that trip of the Black Hawk and introduced into the confederate lines. Mr. J. H. McKee had a permit to take up those goods; I remember only one signature on the permit, and that was Brig. Gen'l Bowen's, then provost marshal general. I believe there was a treasury aid on board; all boats at that time were required to carry one. The goods were landed at Waterloo, and there delivered to A. W. McKee. These goods were plantation supplies. I believe Mr. McKee's permit permitted him to bring back the products of the country.

This permit was a cover, to arrange a meeting between J. H. McKee and A. W. McKee, for the purpose heretofore mentioned; I returned to N.
122 O. with J. H. McKee; I went up to Alexandria with Gen'l Banks on his expedition, on the steamer Black Hawk, in March, 1864; I remained

at Alexandria some three or four weeks. From what I saw while there, and from all I could learn, A. W. McKee had fulfilled his part of the contract. There was cotton hauled into Alexandria while I was there; and it was shipped from there. This was independent of what the navy had seized in and about there. Cotton was still being hauled into Alexandria freely when I left there.

Cross-examined:

Mr. A. W. McKee was the general agent of the treasury department of the Confederate States in Lousiana at this time. I do not know what the treasury regulations were in regard to taking supplies out of the federal lines, I knew they had to be "permitted" by somebody.

ROSS W. DOYLE.

123 *Deposition of R. M. McMahon.*

R. M. McMahon, being duly sworn, deposes and says:

I am 49 years of age, and have resided in this State for the past 27 years. In the months of February and March, 1864, I was head clerk of the steamer Black Hawk, plying between New Orleans and Bayou Sara. About the first week of March, 1864, I recollect that Mr. Ross W. Doyle and John H. McKee went up on the boat to Waterloo; they shipped a few goods on the boat that were put out at Waterloo, which place was a sort of neutral ground, the pickets of one army occupying it one day, and those of the other the next.

Before receiving goods on board the boat, all parties were required to furnish the boat with the proper permits from the military or treasury authorities. While we were running in that trade, a treasury aid was always on the boat, whose duty was to examine permits and passports, and see that they agreed with the goods on board. The said permits were and are always taken up by the treasury aid.

Cross-examined:

124 The permits were from the treasury and military authorities, always countersigned by Gen'l Bowen, provost marshal general. I do not know what Treasury Dep't officer signs them. I know that the goods will not be received on the boats unless the permit is perfectly satisfactory to the treasury aid on the levee, who examines the goods previous to their going on board. The permits are then turned over to the treasury aid, who always remains on the boat, and whose duty it is to see that no more goods leave the boat than such as are specified in the respective permits. These goods taken up by McKee, I cannot say to whom they were consigned without the aid of my books.

R. M. McMAHON.

Deposition of Andrew W. McKee.

Andrew W. McKee, being duly sworn, deposes and says on his voir dire says:

I have been examined in this case before, at Springfield, Ill., in behalf of claimants. I am not interested in this suit.

On his examination, says:

125 The goods which were brought up by Jno. H. McKee and R. W. Doyle on the str. Black Hawk, in the early part of March, 1864, were received by myself and Martin Rabalais, for ourselves and other parties residing in Rapides parish, La. None of them were contraband of war; they were paid for by myself.

I never heard, until my desertion from the so-called confederacy, anything of any of the acts of the United States Congress with reference to the suppression of the rebellion, especially the act passed 17th July, 1862, entitled "An act to suppress insurrection, to punish treason and rebellion, to seize and confiscate the property of rebels, and for other purposes."

From the beginning of the war until the spring of 1865 I was subscriber for and received nearly all the newspapers printed in the trans-Mississippi department, and also had ready access to nearly all the newspapers received by the so-called confederate military authorities, which were brought through from the lines of the United States military authorities. In none
126 of these papers did I ever see or know of such an act as the one above referred to being published.

Mr. John H. McKee showed me several permits under which he was acting in different portions of Louisiana. Some of these I know were in the name of his firm, C. A. Weed & Co., were from the Treasury Department, some may have been from the military authorities; under what particular permit he purchased the cotton, bagging, rope and leather from me I am unable to state; that being his own look-out or concern, I paid no attention to it.

(Testimony in regard to permits objected to on account of their non-production.)

Cross-examinned:

I did not know that the United States prohibited intercourse with persons living within the confederate lines.

I read a permit from the Treasury Department to C. A. Weed & Co.; I did not carefully read it. I was under the impression that it was issued under a treasury regulation.

ANDREW W. McKEE.

127 *Exhibit A, referred to in foregoing depositions.*

HEADQUARTERS DEPARTMENT OF THE GULF,
New Orleans, Feb. 1st, 1864.

Mr. L. Chabert is hereby permitted to go to Port Hudson, with a horse, saddle, and bridle, and from that point to pass through the lines on the west side of the river and return to New Orleans. The general commanding at Port Hudson will facilitate the execution of this order.

N. P. BANKS, *M. G., C.*

Indorsed: Document A, filed with deposition of Leon Chabert, August 15th, 1865.

CHS. CLAIBORNE, *U. S. Com'r.*

Approved.

W. CLUOY, *D. C.*

Exhibit B, referred to in foregoing depositions.

HEADQUARTERS DEPARTMENT OF THE GULF,
New Orleans, M'ch 3d, 1864.

128 Mr. J. H. McKee and Mr. R. W. Doyle are hereby permitted to pass through the lines of the army at Waterloo and return to New Orleans.

N. P. BANKS,
Major Gen., Comm'dg.

Indorsed: Document B.

CHS. CLAIBORNE,
U. S. Com'r.

Exhibit C, referred to in foregoing depositions.

HEADQUARTERS DEPARTMENT OF THE GULF,
New Orleans, 11 March, 1864.

J. H. McKee has permission to proceed to Alexandria and return, on business for the public service, with horse and saddle.

N. P. BANKS,
Major Gen'l, Com'dg.

Let the bearer pass, with one horse, saddle, and bridle, two packages w ea ing apparel, four boxes wine, one box preserved meats, and one thousand segars.

W. CLUOY, *D'y Collector.*

To AGENCY AID.

Indorsed: Document C. CHS. CLAIBORNE, *U. S. Com'r.*

129 *Exhibit D, referred to in foregoing depositions.*

OFFICE CHIEF QUARTERMASTER, DEPARTMENT OF THE GULF,
New Orleans, March 12th, 1864.

Lt. Col. J. G. Chandler, q'm'r 19th corps.

COLONEL: The bearer, Captain J. H. McKee, well known to you, goes with the army, upon the pass of the commanding general, to carry into effect a very important arrangement of the latter. You are especially directed to give him every facility in your power for getting forward and accomplishing the matter which he has in hand, which he will fully explain. Your personal exertions may be very important in determining the success or failure of the scheme, and the general undoubtedly will rely upon you in every respect with perfect confidence.

Most respectfully and truly,

S. B. HOLABIRD,
Col, Chief Qm. D. G

Indorsed: D. CHS. CLAIBORNE, *U. S. Com'r.*

130 Opened Sept. 14, 1865, at instance of L. Weldon, dist. att.
GEO. P. BOWEN, *Clerk.*

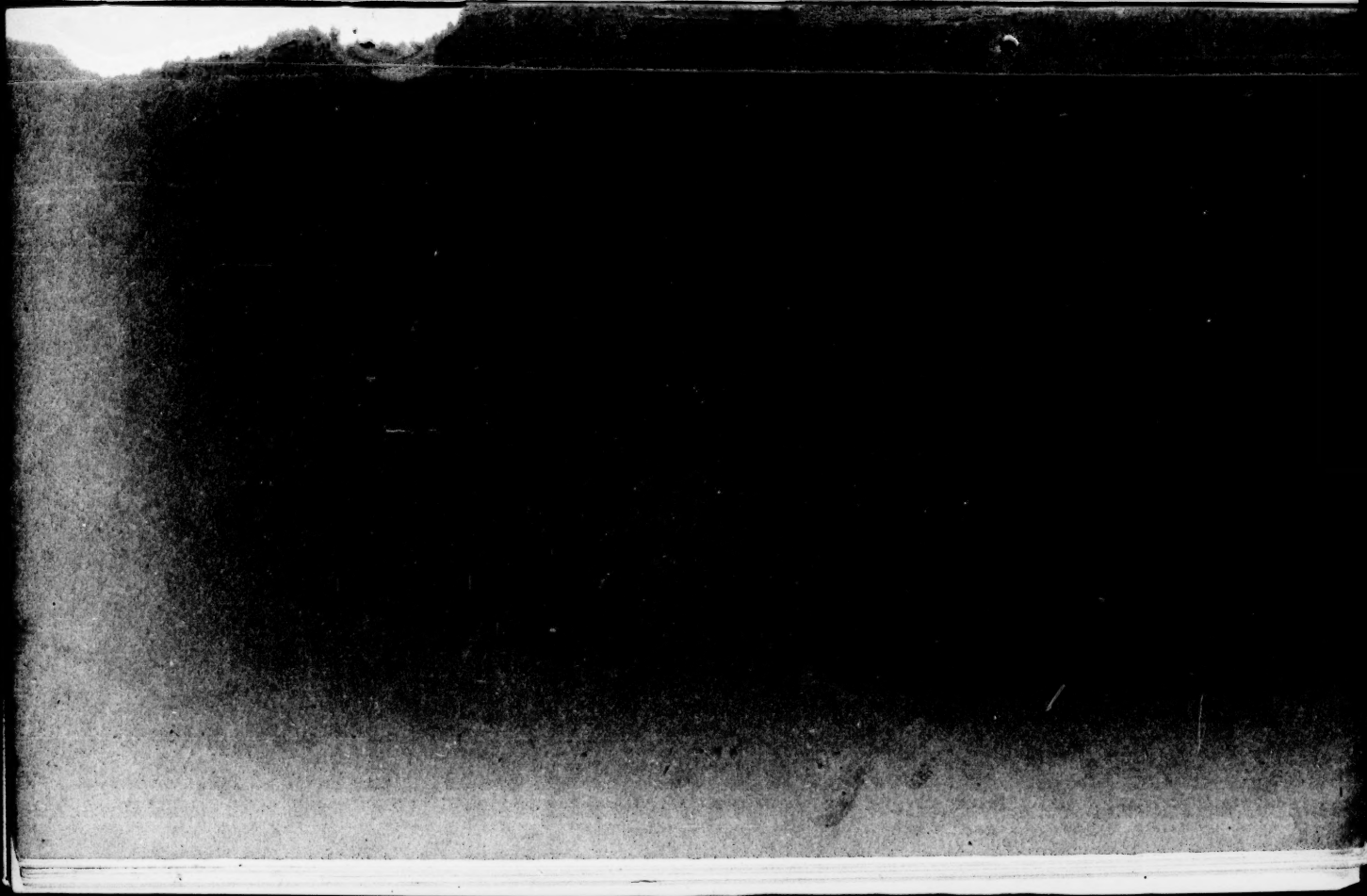
Deposition of Adolph Rachal, in behalf of John H. McKee, taken before Robert M. Kilpatrick, notary public within and for the State of Louisiana and parish of Rapides, on the 16th day of August, A. D. 1865.

In the district court of the United States for the southern district of Ills.

THE UNITED STATES
vs.
137 BALES OF COTTON, 1 LOT OF BAGGING AND ROPE, 1 LOT of leather. J. H. McKee, claimant. } In prize.

UNITED STATES OF AMERICA, *State of Louisiana, parish of Rapides:*

Be it remembered that on this the 16th day of August, A. D. 1865, before me, Rob't M. Kilpatrick, a notary public, duly appointed, qualified,
131 and commissioned, and acting as such, and duly authorized, under and by virtue of the laws of the United States, to take depositions to be used in courts of the United States, personally appeared at Alexandria in the said parish and State—



Supreme Court of the United States.

DECEMBER TERM, 1866.—No. 269.

JOHN H. McKEE, CLAIMANT OF 137 BALES OF COTTON, 100 COILS OF ROPE, 16 BALES, 8 ROLLS, AND 160 PIECES OF BAGGING, AND 29 PIECES OF LEATHER, APPELLANT,

vs.

THE UNITED STATES.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF ILLINOIS.

FACTS.

Appellant was the owner of one hundred and thirty-seven bales of cotton and other property, stored in the warehouse of one Rachal, at Alexandria, Louisiana, when General Banks's expedition ascended Red River by land and water, and took military possession of that country, in the spring of 1864. He had purchased the property of A. W. McKee, a rebel, and paid him for it in United States currency, commonly called greenbacks. It was in charge of his agent, Rachal, when Admiral Porter's flotilla made its appearance at Alexandria, and took possession of it and transferred it to Cairo, Illinois, and soon after caused it to be libelled as prize of war. Plaintiff intervened and filed his claim, as is shown on page 21 of the printed record.

Plaintiff was a loyal citizen of the United States, had never been within the rebel lines, resided at New Orleans from the time it was captured by our forces, and resided there when he purchased the property from A. W. McKee. He purchased under authority and by virtue of permits and licenses granted to him by the Treasury Department, under regulations established by the Secretary of the Treasury

and approved by the President; and also certain authority conferred on him by the military commander of the Gulf. These permits, &c., authorized him to trade with citizens in the disloyal districts of Louisiana, and gave him authority to bring the results of trade—*to wit: cotton*—from such districts to New Orleans.

In the act of taking the cotton, the naval authorities were notified that it belonged to J. H. McKee, a loyal citizen, then in New Orleans, and a protest was made against its removal. Admiral Porter said he was not taking the property for the purpose of confiscating it or libelling it as prize of war, but solely to prevent rebels from destroying it, and that it would be restored to the lawful and loyal owner at Cairo.

POINTS.

First Point. It is not violative of the non-intercourse act of July 13, 1861, for a citizen of a loyal State to trade with a citizen of a disloyal district, if such trading was in pursuance with a license and permit from the President of the United States or the Secretary of the Treasury, or any one acting for either.

Second Point. In such case the status of the citizen does not control and does not enter into the question.

Third Point. Being a transaction between two citizens of the United States, the presumptions are all in favor of its validity, and the *onus*, to show that it is violative of some statute of Congress, rests on the party who seeks to condemn the property.

Fourth Point. Having once shown a permit or license to trade with the insurgent districts, the presumptions are all in favor of the transaction being done under and in pursuance with such authority, until the contrary appears.

Fifth Point. The property of a citizen of the United States cannot lawfully be taken from him by any authority of the United States, except that authority springs out of the judgment of a court having jurisdiction of the person and the subject matter.

Sixth Point. There is no such thing as the law of nations operating within the territorial jurisdiction of the United States, more especially where that law is invoked to condemn the property of a citizen of the United States, found within its territory, as prize of war *jure belli*.

Seventh Point. Until the President has actually caused the seizure of property falling within the operation of the statute of the 17th of July, 1862, the statute is not operative, and no rights arise under it.

Eighth Point. That statute having been passed in aid of the army while in active operation against the rebels, ceased to be effective after the war ended, and no seizure can now be made under it. It expired by its own limitation.

Ninth Point. The title of a purchaser, made in good faith, before actual seizure, is not affected by the political status of the vendor.

Tenth Point. The act of the 17th July, 1862, does not, in terms or by implication, repeal the act of the 13th July, 1861, in so far as it empowers the President of the United States to license and permit commercial intercourse with any part of any insurrectionary district in the United States.

Eleventh Point. During the existence of the rebellion, it was the policy of the authorities of the United States, civil and military, to encourage the purchase of cotton and sugar, the products of disloyal districts, and to afford loyal citizens every facility to effect such purchases. This policy found expression in the acts of Congress, and in the uniform practice of the President, the Secretary of War, the Treasury, his Treasury aids, and the military authorities acting under Executive orders.

Twelfth Point. There was no lawful capture or seizure in this case, but the property was taken possession of and removed by the navy, for safety, to Cairo, with previous knowledge that it was the *bona fide* property of a loyal citizen, entitled to be respected as such.

Thirteenth Point. These confiscation statutes, being *quasi criminal*, must be construed strictly.

ARGUMENT.

I. McKee had special permits to purchase cotton from those in the rebel lines and bring the same to market at New Orleans, in accordance with Treasury regulations of 3d July, 1863, and the sanction of the military authorities.

First. Ross W. Doyle swears, (page 31:) "I know that he (McKee) had permits from the United States Treasury Department, at New Orleans, in the name of C. A. Weed & Co., of which he is and was at that time a member, to bring out cotton, &c., belonging to them on Red and Ouachita Rivers."

W. W. Withenbury swears, (page 32:) "I have understood that the house of C. A. Weed & Co., of New Orleans, of which firm McKee was a member, had permits from the United States Treasury Department to bring property from Alexandria to New Orleans, while Alexandria was occupied by the United States forces, and all other parties who had no permits were prohibited from trading in property at all or exporting it."

Also, on cross-examination, (page 33,) this same witness says, in answer to inquiry about the Treasury permits: "I only know that McKee kept his papers on deposit with the United States quartermaster at Alexandria, and I frequently saw them while McKee was examining them and exhibiting them to said quartermaster; and the privilege of trading in property and shipping the same to New Orleans on United States transports was fully acceded to him."

A. W. McKee swears, (page 34:) "After my sale to J. H. McKee, referred to in answer second, he exhibited to me a protection paper and permit from the United States Treasury Department, authorizing him, or his firm, C. A. Weed & Co., of New Orleans, to trade for or purchase products or property of any kind, in the insurrectionary States, and within the rebel lines, and to bring the same into the Federal lines to New Orleans." The witness speaks again of this permit on page 35, on cross-examination.

L. Chabert swears, (page 36:) "I know positively that John H. McKee had permits to bring this cotton to New Orleans. I went to Alexandria for the purpose of exhibiting to A. W. McKee a written agreement between General Banks and John H. McKee, to the effect, that if A. W. McKee would not have the cotton burned, John H. McKee would have permission to bring his cotton to New Orleans."

On cross-examination, (page 36,) he says: "That I had the permit to bring this cotton to New Orleans, in my possession. It was signed by General Banks and J. H. McKee."

R. M. McMahon swears, (page 38,) after stating that J. H. McKee shipped some goods on board the steamer Black Hawk, he says: "Before receiving goods on board the boat, all parties were required to furnish the boat with proper permits from the military or Treasury authorities. While we were running in that trade a Treasury aid was always on board the boat, whose duty it was to examine permits and passports, and see that they agreed with the goods on board.

The said permits *were* and are always taken up by the Treasury aid."

A. W. McKEE again testifies, (page 39:) "Mr. John H. McKee showed me several permits under which he was acting in different portions of Louisiana. Some of these I know were in the name of his firm, C. A. Weed & Co., and were from the Treasury Department."

Reference is made to the paper issued by the Secretary of the Treasury, (page 42,) which recites that J. H. McKee's partner, C. A. Weed, and another, had special permits from the proper Treasury agents to buy and ship cotton. These are some of the permits referred to in the above testimony.

The testimony establishes:

First. That McKee made the purchase of this cotton, and by the permission of the Treasury and military authorities of the United States.

Second. That he had Treasury permits, issued in the usual way, and from the proper authorities, which permits were subject to inspection, and were in fact inspected by the Treasury aids, as they are called, and by the military authorities at the point where the property was lying that had been purchased under them.

Third. That this very property was to be brought to New Orleans by special permission of the proper Federal authorities, and Mr. Chabert was in possession of that permit, "signed by one of the Treasury agents."

Fourth. These Treasury agents and military authorities acted under special and general licenses from the Secretary of the Treasury and the President of the United States.

Fifth. That the permits were in pursuance of law and specially sanctioned by the sixth section of the act of Congress of 13th July, 1861, and by the President's proclamation of the 2d April, 1863, (13 Statutes at Large, 730,) and Secretary Chase's letter to W. P. Mellau, July 3d, 1863. (See Treasury Regulations, Sept. 11, 1863, page 6.)

II. It was the policy of the United States to secure for consumption and sale as much as possible of the cotton and sugar raised in the insurrectionary States, and for that purpose loyal citizens were authorized to trade within the rebel lines for such property.

This is proved in various ways:

First. By the legislation of Congress.

Congress felt the necessity of saving to the general public the cotton and sugar locked up in the rebel lines, and to that end much legislation was addressed. The sixth section of the act of the 13th July, 1861, and others, were passed in pursuance of this view.

Second. The President's proclamations, and his frequent grants of licenses.

Third. The order which he gave General Banks when he assumed the command of the Department of the Gulf.

Fourth. The orders and directions of the Secretary of the Treasury. (See the letter of the Secretary to W. P. Mellan, General Treasury Agent, dated July 3, 1863, and published in Treasury Regulations, September 11, 1863, pamphlet form, pages 3, 4, 5, 6, 7.)

Hence the frequent grants to loyal citizens to go into the rebel lines and make purchases of this description of property.

In this connection I might call the attention of the Court to the authority of the Secretary of the Treasury, endorsed by the President, on pages 42 and 43 of the Record, for the purpose of showing the esteem in which John H. McKee and his mercantile house were held by the authorities of the United States, as well as to show that they were licensed to trade for these productions of Louisiana. The evidence shows that this permit or license was intended alike for the benefit of the house of C. A. Weed & Co., as well as the parties specially named in that paper.

But that is hardly necessary, in view of the positive evidence already commented on, showing that he had Treasury and military permits to make the purchase of the property now claimed by him, known to all the authorities of the United States at Alexandria, New Orleans, and other points in that country.

III. But it is claimed that A. W. McKee was disabled from transmitting the title of the property because he held an office under the so-called Confederate States of America, and that brought him within the operation of the category named in the fifth subdivision or classification of the fifth section of the act of the 17th of July, 1862.

There are several answers to this claim:

1st. It does not appear that McKee held *any* office under that government or under the laws thereof. The fact that he was entrusted with the collection or purchase of cotton, in a particular locality, does not establish that he held an

office, or that he was an agent appointed in pursuance of law.

2d. This provision contemplates, and in fact embraces, two propositions: 1st, That the "office" or "agency" spoken of must be "held *under* the government." Now, to be held under the government, it must appear affirmatively; 1st, That it was created by some law, that is, that there was such an office created by law, for there is no other way in which an office can be created by government. Government can only speak through the law-making power, (the legislature,) or through the fundamental law. This view is strengthened by a consideration of the words that occur in the same sentence, "or the laws thereof," for although they do not immediately follow those I have just been considering, they are embraced in the same sentence, and may be legitimately and grammatically considered as referring to the antecedent words embraced in the first part of the sentence, a comma only being used to separate them. That is, Congress meant to say, "that any person holding an office or agency under the government of the so-called Confederate States of America, or the laws thereof." Thus, then, the office or agency must be created by the fundamental law, or the laws of the Confederate States, and it is incumbent on those who would condemn the property, to prove the fact that the position called, in the record, "General agent of the Treasury Department of the Confederate States, in Louisiana," was so created. It is not enough that A. W. McKee was called by that name. It may have been a fact or it may not. He may have been an officer and he may not have been. He may have been an agent or he may not have been. The attempt to deprive a citizen of the United States of his property, not for any crime he may have committed, and of which he may have been convicted, springs out of a statute, *quasi criminal* in its operations, and must be strictly pursued. The *onus* is on him who would enforce the extraordinary right—What is he required to do.

1st. To show that it was an office or an agency by law.

2d. That A. W. McKee was "appointed" to it, or "elected" to it, according to law.

3d. That he "*accepted*" such "appointment or election," since the date of the ordinance of secession of the State. (What State?) or

4th. That he took an oath of allegiance to support the constitution of the so-called Confederate States.

These, or some of them, are necessary conditions precedent to a right to proceed.

Now, it may be well to inquire, what evidence is there of any of these facts? There is nothing *tending* to show, 1st, That McKee was "appointed or elected to such an office or agency." 2d, That he was a citizen of any State that passed the ordinance of secession. That he took the oath of allegiance to the so-called Confederacy. In point of fact the record is wholly silent on these points. Thus, it does not appear that A. W. McKee was disabled from making this sale, since there is no proof that comes within the operation of any of the provisions of this statute. But there is another view which takes this case beyond the influence of this statute.

The fifth section declares "that, to insure the speedy termination of the present rebellion, it shall be the duty of the President of the United States *to cause* the seizure of all the estate and property, money, stocks, credits and effects of the persons hereinafter named in this section," &c. This property was never seized under this section, but was captured, as is claimed, by the naval forces, as prize of war, and, as such, libelled by the United States. That libel and those proceedings still stand, and are thus brought into this Court. Congress declares that the seizure may be made by the President for the sole purpose of insuring the speedy termination of the rebellion; that is to say, as one of the means to bring the war to a speedy end, and by way of warning and punishment, he may seize. Now, the moment the war was over, the statute spent its force, and no seizure could be lawfully made under it. Here none ever was made by order of the President or otherwise, except by the navy, as prize of war. Whatever would have been the effect of a seizure under this statute before the end of the war, it is obvious that none can be now made. All the power of the President to seize proceeding from the statute, the moment it ceased to operate that power fell with it.

It cannot be said that the sixth subdivision of the fifth section interposes to prevent a decree of restoration—first, because the property was not seized under the authority of this statute, and the statute cannot be pleaded, except in the case made in the statute; second, because, by its very terms, the estoppel therein provided can be applied to none but the rebel falling within the operation of that section. *He* must bring the suit. The language is—"and it shall be sufficient bar to any suit brought by *such* person for the possession

and use of *such* property, or any of it, to allege and prove that *he* is one of the persons described in this section."

"*Such person*" is one of the parties disabled by the fifth section, not their vendees.

But it may be said that the preceding clause of the sixth subdivision of this section is pointed at the property in the hands of all purchasers of the disabled rebel. To this I have to reply, that Congress meant to direct the legislation against "*such* property" as was seized by the President's order, under this section. *After* such seizure, "all sales, transfers, or conveyances of *such* property shall be null and void." The term "such property" is referable to the property the President should order seized. There is no other property named or referred to. The entire section is intended to create the right in the President to cause the seizure, &c., and to define whose property shall be *liable* to seizure, and the consequences and legal sequences of such seizure. Any other construction would involve the law and its execution in the greatest possible absurdity and impracticability. It would make void every transaction emanating from these disabled rebels throughout the war, whether those transactions were large or small, and would involve half the property of that country in the wildest confusion and anarchy.

IV. J. H. McKee was the trusted agent of our military authorities in Louisiana, and was selected by the commander of the Gulf to make important negotiations for the Government, and to effect certain purposes and procure certain information, alike valuable to the military authorities and the Government. While being so trusted, the commanding general gave him permits to purchase cotton outside of our military lines. (J. H. McKee, Record, page 36; also Doyle, page 37.) The real object of this movement was to make such arrangements with the Confederate authorities as would prevent them from burning cotton, their invariable custom when our forces compelled theirs to fall back. General Banks was about to advance, on land and by the river, with a formidable force, and he was desirous of preventing this wholesale devastation of cotton. The policy of the Government, as shown in its legislation, in the President's proclamation, in its Treasury regulations, and in the order appointing him to command the Department of the Gulf, admonished General Banks that he must take such preliminary steps as would prevent the burning of cotton, or he would find none in Red River when he reached that country;

hence the employment of McKee, and the permits he granted him. (See R. W. Doyle, Record, page 37.) The purchase was made: at the same time the arrangement was entered into preventing the burning of cotton, but it was not made in the enemy's lines, but at a point treated by both parties as *neutral*. (A. W. McKee, Record, page 34; also A. M. McMahon, page 38.) This was early in March, 1864. It was likewise agreed that J. H. McKee might bring the cotton thus purchased into our lines after he purchased. (See Doyle's and J. H. McKee's depositions.) Without special permit to do so, this would follow from the authority to purchase.

V. A careful consideration of the acts of Congress, the President's proclamations, the order appointing Gen. Banks to command the Department of the Gulf, and the Treasury Trade Regulations, and Secretary's Chase's letters to W. P. Mellen, the supervising special agent at Memphis, will establish these propositions, viz:

First. Intercourse between loyal States or districts and States and districts controlled by insurgents was encouraged.

Second. *Modified* intercourse between loyal States and districts, and States and districts partially regained to the Union. In one of the letters to Mr. Mellen, viz: July 30, 1863, the Secretary says: "There does not seem to me to be so much danger in intercourse which does not involve the purchase of supplies." * * "Intercourse such as this, it seems to me might be safely permitted co-extensively with our lines of military occupation."

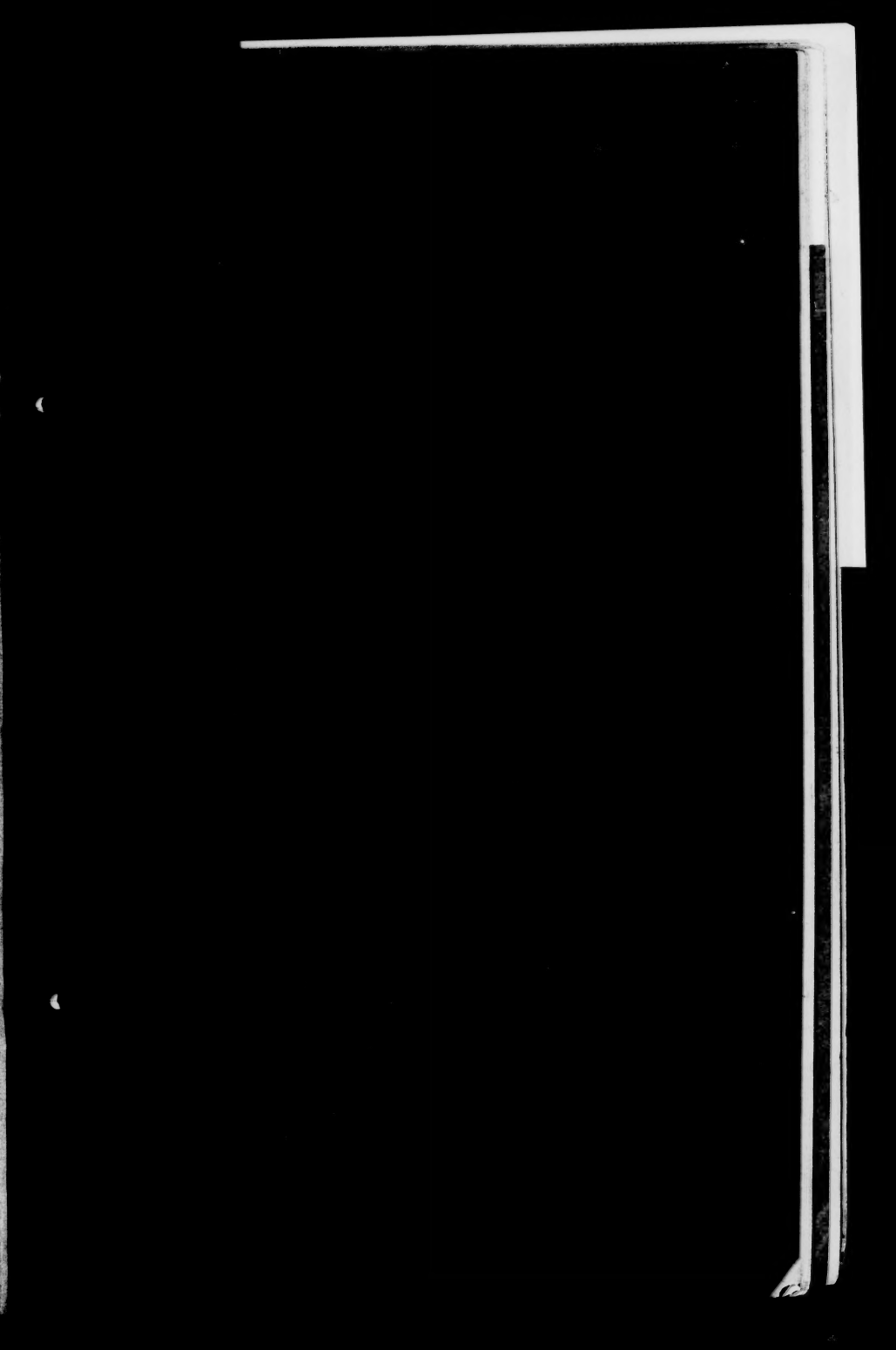
Third. It is of historical notoriety that, in the spring of 1864, after the fall of Vicksburg and Port Hudson, the regulations were greatly modified, and persons were licensed to trade *with the enemy* for cotton, exchanging United States currency for it. The status of the owner was not considered, and Mr. Mellen stated that purchases might be made of noted rebels, and they would be valid. This change of policy, on the part of the Government, was induced by the necessity to procure cotton and sugar for our people. Hence, the language employed by the Government to Gen. Banks, the arrangements made by Gen. Banks to have cotton brought from the rebel lines, and the frequent permits of the President to bring out sugar and cotton. With the view to this state of things, Congress expressly clothed the President with authority to permit that sort of trading with the citizens of the insurgent States.

It was in pursuance with this general policy of the Government, that Mr. J. H. McKee was permitted to trade and did trade with A. W. McKee and other disloyal citizens, and it would seem strange if such trading, strictly in accordance with that policy and those permits, cannot be justified and held valid.

The order of the President, November 9, 1862, appointing General Banks to command the Department of the Gulf, is to be found in the military history of the country. It is too long to be inserted here. A careful examination of it will further strengthen the views. In stating the objects which the Government thought worthy of his attention, to indicate the second object, this language is employed: "To ascend with a naval and military force the Red River, as far as it is navigable, and *thus open an outlet for the sugar and cotton of northern Louisiana.*" This order suggests some reflections germain to the subject under discussion.

1st. It discloses the object of the Government to save and bring to market the productions of Louisiana *then in rebel rule*, not by capture, but by moving out of the way the obstacles to those productions coming to the market in the loyal States, viz: rebel rule. It is to be observed that there are no directions to capture this property as *booty* or *prize of war*, but to "open an outlet for the sugar and cotton of northern Louisiana." Citizens of the United States, the owners of these productions, were held then by military tyranny, and the object was to relieve them from it and give them an opportunity to resume their political and commercial relations with their Government, and to give loyal States the opportunity of buying these productions.

2d. Inasmuch as that country was inhabited by rebels, and the great body of the planters were rebels, or rebel adherents, it must be supposed that the Government was seeking to relieve this property and bring it to market. The language is applicable to *all* that description of property in that country, and was meant to embrace rebel as well as loyal planters. This order accords with the other items of evidence, already commented on, as showing that it was the policy of our Government to secure the cotton of the Gulf, or rebel States for general use.

For these reasons I respectfully ask a judgment for claimant.

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